thorizing for the future the formation of county line rural high school districts with legal status of strict independent school districts organized under the General Laws.

Sec. 4. The fact that the legal existence of various independent school districts may be questioned creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House to be suspended, and said Rule is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

Passed the House, February 14, 1949: Yeas 129, Nays 0; House refused to concur in Senate amendments, March 1, 1949, and requested appointment of Conference Committee to consider differences between the two Houses; House adopted Conference Committee Report, March 2, 1949; Yeas 129, Nays 0; passed the Senate, with amendments, February 24, 1949: Yeas 28, Nays 1; at request of House, Senate appointed a Conference Committee to consider differences between the two Houses; Senate adopted Conference Committee Report, March 3, 1949: Yeas 26, Nays 1.

Approved March 10, 1949.

Effective March 10, 1949.

PECOS RIVER COMPACT

Chapter 30[26]

S. B. No. 169

An Act approving and adopting the Pecos River Compact; authorizing the Governor to appoint a Commissioner to administer the provisions of the Compact; providing for the salary and necessary expenses of the Commissioner; appropriating for the expenses of administering the Compact; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. The Pecos River Compact entered into and signed at Santa Fe, New Mexico, on December 3, 1948, by John H. Bliss, Commissioner for the State of New Mexico, and Charles H. Miller, Commissioner for the State of Texas, and approved by Berkeley Johnson, representing the United States of America, an original counterpart of which has been deposited in the office of the Secretary of State for the State of Texas, is hereby, in all respects, ratified and confirmed, said Compact being as follows:

PECOS RIVER COMPACT

Entered Into by the States of

NEW MEXICO

and

TEXAS

Sante Fe, New Mexico
December 3, 1948

PECOS RIVER COMPACT

The State of New Mexico and the State of Texas, acting through their Commissioners, John H. Bliss for the State of New Mexico and Charles

26 Vernon's Ann.Civ.St., art. 7466f.

H. Miller for the State of Texas, after negotiations participated in by Berkeley Johnson, appointed by the President as the representative of the United States of America, have agreed respecting the uses, apportionment and deliveries of the water of the Pecos River as follows:

Article I

The major purposes of this Compact are to provide for the equitable division and apportionment of the use of the waters of the Pecos River; to promote interstate comity; to remove causes of present and future controversies; to make secure and protect present development within the states; to facilitate the construction of works for, (a) the salvage of water, (b) the more efficient use of water, and (c) the protection of life and property from floods.

Article II

As used in this Compact:

(a) The term "Pecos River" means the tributary of the Rio Grande which rises in north-central New Mexico and flows in a southerly direction through New Mexico and Texas and joins the Rio Grande near the town of Langtry, Texas, and includes all tributaries of said Pecos River.

(b) The term "Pecos River Basin" means all of the contributing drainage area of the Pecos River and its tributaries above its mouth near Langtry, Texas.

(c) "New Mexico" and "Texas" mean the State of New Mexico and the State of Texas, respectively; "United States" means the United States of America.

(d) The term "Commission" means the agency created by this Compact for the administration thereof.

(e) The term "deplete by man's activities" means to diminish the stream flow of the Pecos River at any given point as the result of beneficial consumptive uses of water within the Pecos River Basin above such point. For the purposes of this Compact it does not include the diminution of such flow by encroachment of salt cedars or other like growth, or by deterioration of the channel of the stream.

(f) The term "Report of the Engineering Advisory Committee" means that certain report of the Engineering Advisory Committee dated January, 1948, and all appendices thereto; including, basic data, processes, and analyses utilized in preparing that report, all of which were reviewed, approved, and adopted by the Commissioners signing this Compact at a meeting held in Santa Fe, New Mexico, on December 3, 1948, and which are included in the Minutes of that meeting.

(g) The term "1947 condition" means that situation in the Pecos River Basin as described and defined in the Report of the Engineering Advisory Committee. In determining any question of fact hereafter arising as to such situation, reference shall be made to, and decisions shall be based on, such report.

(h) The term "water salvaged" means that quantity of water which may be recovered and made available for beneficial use and which quantity of water under the 1947 condition was non-beneficially consumed by natural processes.

(i) The term "unappropriated flood waters" means water originating in the Pecos River Basin above Red Bluff Dam in Texas, the impoundment of which will not deplete the water usable by the storage and diversion facilities existing in either state under the 1947 condition and which if not impounded will flow past Girvin, Texas.

Article III

(a) Except as stated in paragraph (f) of this Article, New Mexico shall not deplete by man's activities the flow of the Pecos River at the New Mexico-Texas state line below an amount which will give to Texas a quantity of water equivalent to that available to Texas under the 1947 condition.

(b) Except as to the unappropriated flood waters thereof, the apportionment of which is included in and provided for by paragraph (f) of this Article, the beneficial consumptive use of the waters of the Deleware River is hereby apportioned to Texas, and the quantity of such beneficial consumptive use shall be included in determining waters received under the provisions of paragraph (a) of this Article.

(c) The beneficial consumptive use of water salvaged in New Mexico through the construction and operation of a project or projects by the United States or by joint undertakings of Texas and New Mexico, is hereby apportioned forty-three per cent (43%) to Texas and fifty-seven per cent (57%) to New Mexico.

(d) Except as to water salvaged, apportioned in paragraph (c) of this Article, the beneficial consumptive use of water which shall be non-beneficially consumed, and which is recovered, is hereby apportioned to New Mexico but not to have the effect of diminishing the quantity of water available to Texas under the 1947 condition.

(e) Any water salvaged in Texas is hereby apportioned to Texas.

(f) Beneficial consumptive use of unappropriated flood waters is hereby apportioned fifty per cent (50%) to Texas and fifty per cent (50%) to New Mexico.

Article IV

(a) New Mexico and Texas shall cooperate to support legislation for the authorization and construction of projects to eliminate non-beneficial consumption of water.

(b) New Mexico and Texas shall cooperate with agencies of the United States to devise and effectuate means of alleviating the salinity conditions of the Pecos River.

(c) New Mexico and Texas each may:

(i) Construct additional reservoir capacity to replace reservoir capacity made unusable by any cause.

(ii) Construct additional reservoir capacity for the utilization of water salvaged and unappropriated flood waters apportioned by this Compact to such state.

(iii) Construct additional reservoir capacity for the purpose of making more efficient use of water apportioned by this Compact to such state.

(d) Neither New Mexico nor Texas will oppose the construction of any facilities permitted by this Compact, and New Mexico and Texas will cooperate to obtain the construction of facilities that will be of joint benefit to the two states.

(e) The Commission may determine the conditions under which Texas may store water in works constructed in and operated by New Mexico.

(f) No reservoir shall be constructed and operated in New Mexico above Avalon Dam for the sole benefit of Texas unless the Commission shall so determine.

(g) New Mexico and Texas each has the right to construct and operate works for the purpose of preventing flood damage.

(h) All facilities shall be operated in such manner as to carry out the terms of this Compact.

Article V

(a) There is hereby created an interstate administrative agency to be known as the "Pecos River Commission." The Commission shall be composed of one Commissioner representing each of the states of New Mexico and Texas, designated or appointed in accordance with the laws of each such state, and, if designated by the President, one Commissioner representing the United States. The President is hereby requested to designate such a Commissioner. If so designated, the Commissioner representing the United States shall be the presiding officer of the Commission, but shall not have the right to vote in any of the deliberations of the Commission. All members of the Commission must be present to constitute a quorum.

(b) The salaries and personal expenses of each Commissioner shall be paid by the government which he represents. All other expenses which are incurred by the Commission incident to the administration of this Compact and which are not paid by the United States shall be borne equally by the two states. On or before November 1 of each even numbered year the Commission shall adopt and transmit to the Governors of the two states and to the President a budget covering an estimate of its expenses for the following two years. The payment of the expenses of the Commission and of its employees shall not be subject to the audit and accounting procedures of either of the two states. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a qualified independent public accountant and the report of the audit shall be included in, and become a part of, the annual report of the Commission.

(c) The Commission may appoint a secretary who, while so acting, shall not be an employee of either state. He shall serve for such term, receive such salary, and perform such duties as the Commission may direct. The Commission may employ such engineering, legal, clerical, and other personnel as in its judgment may be necessary for the performance of its functions under this Compact. In the hiring of employees the Commission shall not be bound by the civil service laws of either state.

(d) The Commission, so far as consistent with this Compact, shall have power to:

1. Adopt rules and regulations;
2. Locate, establish, construct, operate, maintain, and abandon water gaging stations, independently or in cooperation with appropriate governmental agencies;
3. Engage in studies of water supplies of the Pecos River and its tributaries, independently or in cooperation with appropriate governmental agencies;
4. Collect, analyze, correlate, preserve and report on data as to the stream flows, storage, diversions, salvage, and use of the waters of the Pecos River and its tributaries, independently or in cooperation with appropriate governmental agencies;
5. Make findings as to any change in depletion by man's activities in New Mexico, and on the Delaware River in Texas;
6. Make findings as to the deliveries of water at the New Mexico-Texas state line;
7. Make findings as to the quantities of water salvaged and the amount thereof delivered at the New Mexico-Texas state line;
8. Make findings as to quantities of water non-beneficially consumed in New Mexico;
9. Make findings as to quantities of unappropriated flood waters;
10. Make findings as to the quantities of reservoir losses from

reservoirs constructed in New Mexico which may be used for the benefit of both states, and as to the share thereof charged under Article VI hereof to each of the states;

11. Acquire and hold such personal and real property as may be necessary for the performance of its duties hereunder and to dispose of the same when no longer required;

12. Perform all functions required of it by this Compact and do all things necessary, proper or convenient in the performance of its duties hereunder, independently or in cooperation with appropriate governmental agencies;

13. Make and transmit annually to the Governors of the signatory states and to the President of the United States on or before the last day of February of each year, a report covering the activities of the Commission for the preceding year.

(e) The Commission shall make available to the Governor of each of the signatory states any information within its possession at any time, and shall always provide free access to its records by the Governors of each of the States, or their representatives, or authorized representatives of the United States.

(f) Findings of fact made by the Commission shall not be conclusive in any court, or before any agency or tribunal, but shall constitute prima facie evidence of the facts found.

(g) The organization meeting of the Commission shall be held within four months from the effective date of this Compact.

Article VI

The following principles shall govern in regard to the apportionment made by Article III of this Compact:

(a) The Report of the Engineering Advisory Committee, supplemented by additional data hereafter accumulated, shall be used by the Commission in making administrative determinations.

(b) Unless otherwise determined by the Commission, depletions by man's activities, state-line flows, quantities of water salvaged, and quantities of unappropriated flood waters shall be determined on the basis of three-year periods reckoned in continuing progressive series beginning with the first day of January next succeeding the ratification of this Compact.

(c) Unless and until a more feasible method is devised and adopted by the Commission the inflow-outflow method, as described in the Report of the Engineering Adisory [26a] Committee, shall be used to:

(i) Determine the effect on the state-line flow of any change in depletions by man's activities or otherwise, of the waters of the Pecos River in New Mexico.

(ii) Measure at or near the Avalon Dam in New Mexico the quantities of water salvaged.

(iii) Measure at or near the state line any water released from storage for the benefit of Texas as provided for in subparagraph (d) of this Article.

(iv) Measure the quantities of unappropriated flood waters apportioned to Texas which have not been stored and regulated by reservoirs in New Mexico.

(v) Measure any other quantities of water required to be measured under the terms of this Compact which are susceptible of being measured by the inflow-outflow method.

[26a] So in enrolled bill. Probably should be "advisory."

(d) If unappropriated flood waters apportioned to Texas are stored in facilities constructed in New Mexico, the following principles shall apply:

(i) In case of spill from a reservoir constructed in and operated by New Mexico, the water stored to the credit of Texas will be considered as the first water to spill.

(ii) In case of spill from a reservoir jointly constructed and operated, the water stored to the credit of either state shall not be affected.

(iii) Reservoir losses shall be charged to each state in proportion to the quantity of water belonging to that state in storage at the time the losses occur.

(iv) The water impounded to the credit of Texas shall be released by New Mexico on the demand of Texas.

(e) Water salvaged shall be measured at or near the Avalon Dam in New Mexico and to the quantity thereof shall be added a quantity equal to the quantity of salvaged water depleted by man's activities above Avalon Dam. The quantity of water salvaged that is apportioned to Texas shall be delivered by New Mexico at the New Mexico-Texas state line. The quantity of unappropriated flood waters impounded under paragraph (d) of this Article, when released shall be delivered by New Mexico at the New Mexico-Texas state line in the quantity released less channel losses. The unappropriated flood waters apportioned to Texas by this Compact that are not impounded in reservoirs in New Mexico shall be measured and delivered at the New Mexico-Texas state line.

(f) Beneficial use shall be the basis, the measure, and the limit of the right to use water

Article VII

In the event of importation of water by man's activities to the Pecos River Basin from any other river basin the state making the importation shall have the exclusive use of such imported water.

Article VIII

The provisions of this Compact shall not apply to, or interfere with, the right or power of either signatory state to regulate within its boundaries the appropriation, use and control of water, not inconsistent with its obligations under this Compact.

Article IX

In maintaining the flows at the New Mexico-Texas state line required by this Compact, New Mexico shall in all instances apply the principle of prior appropriation within New Mexico.

Article X

The failure of either state to use the water, or any part thereof, the use of which is apportioned to it under the terms of this Compact, shall not constitute a relinquishment of the right to such use, nor shall it constitute a forfeiture or abandonment of the right to such use.

Article XI

Nothing in this Compact shall be construed as:

(a) Affecting the obligations of the United States under the Treaty with the United Mexican States (Treaty Series 994);

(b) Affecting any rights or powers of the United States, its agencies or instrumentalities, in or to the waters of the Pecos River, or its capacity to acquire rights in and to the use of said waters;

(c) Subjecting any property of the United States, its agencies or instrumentalities, to taxation by any state or subdivision thereof, or creating any obligation on the part of the United States, its agencies or instrumentalities, by reason of the acquisition, construction or operation of any property or works of whatever kind, to make any payment to any state or political subdivision thereof, state agency, municipality or entity whatsoever, in reimbursement for the loss of taxes;

(d) Subjecting any property of the United States, its agencies or instrumentalities, to the laws of any state to an extent other than the extent to which such laws would apply without regard to this Compact.

Article XII

The consumptive use of water by the United States or any of its agencies, instrumentalities or wards shall be charged as a use by the state in which the use is made; provided, that such consumptive use incident[26b] to the diversion, impounding, or conveyance of water in one state for use in the other state shall be charged to such latter state.

Article XIII

This Compact shall not be construed as establishing any general principle or precedent applicable to other interstate streams.

Article XIV

This Compact may be terminated at any time by appropriate action of the legislatures of both of the signatory states. In the event of such termination, all rights established under it shall continue unimpaired.

Article XV

This Compact shall become binding and obligatory when it shall have been ratified by the legislature of each State and approved by the Congress of the United States. Notice of ratification by the legislature of each State shall be given by the Governor of that State to the Governor of the other State and to the President of the United States, and the President is hereby requested to give notice to the Governor of each State of approval by the Congress of the United States.

In Witness Whereof, the Commissioners have executed three counterparts hereof each of which shall be and constitute an original, one of which shall be deposited in the archives of the Department of State of the United States, and one of which shall be forwarded to the Governor of each State.

Done at the City of Santa Fe, State of New Mexico, this 3rd day of December, 1948.

JOHN H. BLISS
Commissioner for the State of New Mexico

CHARLES H. MILLER
Commissioner for the State of Texas

APPROVED

BERKELEY JOHNSON
Representative of the United States of America

[26b] So in enrolled bill. Probably should be "incident."

Sec. 2. The Governor shall, with the advice and consent of the Senate, appoint a Commissioner, who shall represent the State of Texas on the Commission provided for by Article V of the Pecos River Compact and who shall be charged with the administration of the provisions of said Compact, and who shall have the powers and discharge the duties prescribed by the terms of said Compact. Such Commissioner shall serve for a term of two (2) years from and after the date of his appointment and until his successor, who shall serve for a like term, is appointed and qualified. He shall take oath of office as prescribed by the Constitution and, in addition thereto, he shall take oath to perform faithfully the duties incumbent upon him as such Commissioner. Until otherwise provided by law, he shall receive a salary of Three Hundred ($300.00) Dollars each month. He shall be allowed his actual expenses when traveling in the discharge of his duties. The Commissioner shall have authority to meet and confer with the New Mexico member of the Commission at such points within the States of Texas and New Mexico, and elsewhere, as the Commission may see fit. He may make such investigations and appoint such engineering, legal and clerical aid as may be necessary to protect the interest of the State of Texas and to carry out and enforce the terms of said Compact. He may incur necessary office expenses and other expenses incident to the proper performance of his duties and the proper administration of the provisions of the Pecos River Compact. But such Commissioner shall incur no financial obligation on behalf of the State of Texas until the Legislature shall have provided and appropriated money therefor.

Sec. 3. There is hereby appropriated the sum of Sixty Thousand ($60,000.00) Dollars for the biennium next following, Thirty Thousand ($30,000.00) Dollars of said sum to be made available on September 1, 1949, and Thirty Thousand ($30,000.00) Dollars on September 1, 1950, out of any funds in the State Treasury not otherwise appropriated, for the purpose of carrying out the provisions of the Act. Said money shall be paid out on sworn accounts approved by the Commissioner and shall be paid out of the State Treasury on warrants of the Comptroller as under General Laws.

Sec. 4. The State Board of Water Engineers shall furnish the Commissioner appointed hereunder such factual data and information as it may have available and shall cooperate with the Commissioner in the performance of his duties.

Sec. 5. The provisions of the Pecos River Compact shall not become binding and obligatory until they shall have been duly ratified and approved by the Legislature of the State of New Mexico and by the Congress of the United States of America.

Sec. 6. It shall be the duty of the Governor of Texas to notify the Governor of New Mexico and the President of the United States of the ratification by the State of Texas of the Pecos River Compact; and, on request of the Governor, the Secretary of State shall furnish to the Governor of New Mexico and to the President of the United States a certified copy of this Act.

Sec. 7. The fact that a large portion of the agricultural area of the State of Texas can only be developed by the timely use of the waters of the Pecos River for irrigation purposes; the fact that it is to the interest of the people of the State of Texas generally that the rights of its citizens to the use of the waters of the Pecos River be forthwith declared and observed; and the further fact that the public welfare of the inhabitants of the State of Texas is dependent upon the agricultural benefits resulting from such irrigation creates an emergency and imperative public necessity that the Constitutional Rule that bills be read on

three several days in each House be suspended, and said Rule is hereby suspended, and that this Act take effect from and after its passage, and it is so enacted.

Passed the Senate, February 7, 1949: Yeas 28, Nays 0; passed the House, March 2, 1949: Yeas 128, Nays 0.

Approved March 4, 1949.

Effective March 4, 1949.

CITIES AND TOWNS—VALIDATING ACT

CHAPTER 31 [27]

S. B. No. 27

An Act validating the discontinuance and/or any attempted discontinuance of territory, and validating the boundaries and areas of all cities and towns incorporated under the General Laws of the State of Texas, having a population of two thousand (2,000) inhabitants or less, at the time of the discontinuance or attempted discontinuance of said territory; and declaring all cities and towns having a population of two thousand (2,000) or less as authorized by Article 971, Revised Civil Statutes of 1925, to be declared valid; validating all petitions and ordinances discontinuing or attempting to discontinue territory, and validating the boundary lines of any such city or town, after the discontinuance or attempted discontinuance of such territory, although the territory in said city, as a result of the discontinuance or attempted discontinuance of such territory, consists of two or more separate areas; and validating the act of any city contiguous thereto in subsequently annexing the territory thus discontinued; provided that this Act shall not apply in cases where litigation, affecting such discontinuance or attempted discontinuance of territory, is now pending; and providing if any section, subsection, sentence, clause or phrase of this Act is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Act; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. This Act shall apply to all cities and towns incorporated under the General Laws of this state having a population of two thousand (2,000) inhabitants or less at the time of the passage of any ordinance by the City Council of any such city or town discontinuing or attempting to discontinue any territory as a part of said city or town, and to any incorporated city or town contiguous thereto.

Sec. 2. All petitions praying for an ordinance and all ordinances discontinuing or attempting to discontinue any territory from within the corporate limits of any incorporated city or town having a population of two thousand (2,000) inhabitants or less at the time of the discontinuance or attempted discontinuance of any territory forming a part of said city, and the boundaries and areas of any such city or town after the discontinuance or attempted discontinuance of any territory forming a part of said city or town, although said city or town, as a result of said discontinuance or attempted discontinuance consists of two or more separate areas, after the discontinuance or attempted discontinuance of any such territory, shall be, and the same are, hereby in all things validated and confirmed, and all cities and towns, having a population of two thousand (2,000) or less at the time of incorporation, whose charters and incorporations may be void by reason of having included in such limits more territory than authorized by Article 971, Re-

27 Vernon's Ann.Civ.St., art. 973a.