

WATER CODE

CHAPTER 58 ⁴

H. B. No. 343

An Act adopting the Water Code, a formal revision of the general and permanent statutes relating to water rights, water development, water quality control, river compacts, and general law districts; repealing the statutes replaced by the code; and declaring an emergency.

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

Section 1. Adoption of Code. The Water Code is adopted to read as follows:

TEXAS WATER CODE

TITLE 1. GENERAL PROVISIONS

CHAPTER 1. GENERAL PROVISIONS

SUBCHAPTER A. PURPOSE AND POLICY

Section 1.001. Purpose of Code

(a) This code is enacted as a part of the state's continuing statutory revision program, begun by the Texas Legislative Council in 1963 as directed by the legislature in Chapter 448, Acts of the 58th Legislature, Regular Session, 1963 (Article 5429b—1, Vernon's Texas Civil Statutes). The program contemplates a topic-by-topic revision of the state's general and permanent statute law without substantive change.

(b) Consistent with the objectives of the statutory revision program, the purpose of this code is to make the general and permanent water law more accessible and understandable, by:

- (1) rearranging the statutes into a more logical order;
- (2) employing a format and numbering system designed to facilitate citation of the law and to accommodate future expansion of the law;
- (3) eliminating repealed, duplicative, unconstitutional, expired, executed, and other ineffective provisions; and
- (4) restating the law in modern American English to the greatest extent possible.

(c) This restatement shall not in any way make any changes in the substantive laws of the State of Texas.

(d) Laws of a local or special nature, such as statutes creating various kinds of conservation and reclamation districts, are not included in, or

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affected by, this code. The legislature believes that persons interested in these local and special laws may rely on the session laws and on compilations of these laws. (New.)

§ 1.002. Construction of Code

The Code Construction Act (Article 5429b—2, Vernon's Texas Civil Statutes) applies to the construction of each provision in this code, except as otherwise expressly provided by this code. (New.)

§ 1.003. Public Policy

It is the public policy of the state to provide for the conservation and development of the state's natural resources, including:

- (1) the control, storage, preservation, and distribution of the state's storm and flood waters and the waters of its rivers and streams for irrigation, power, and other useful purposes;
- (2) the reclamation and irrigation of the state's arid, semiarid, and other land needing irrigation;
- (3) the reclamation and drainage of the state's overflowed land and other land needing drainage;
- (4) the conservation and development of its forest, water, and hydroelectric power; and
- (5) the navigation of the state's inland and coastal waters. (R.S. Art. 7466.)

[Sections 1.04–1.10 reserved for expansion]

SUBCHAPTER B. DEFINITIONS

Section 1.011. Measurement of Flowing Water

(a) A cubic foot per second is the quantity of water that will pass through an area of one square foot in one second when flowing at an average speed of one foot per second. (R.S. Art. 7540.)

(b) The cubic foot per second is the standard unit for measuring flowing water for the purpose of distributing water for beneficial uses. (R.S. Art. 7538.)

§ 1.012. Measurement of Standing Water

(a) An acre-foot is the quantity of water required to cover one acre one foot deep. (R.S. Art. 7541.)

(b) The acre-foot is the standard unit for measuring the volume of static water. (R.S. Art. 7539.)

TITLE 2. STATE WATER ADMINISTRATION

SUBTITLE A. WATER RIGHTS

CHAPTER 5. WATER RIGHTS

SUBCHAPTER A. GENERAL PROVISIONS

Section 5.001. Vested Rights Not Affected

(a) Nothing in this code affects vested private rights to the use of water, except to the extent that provisions of Subchapter G of this chapter might affect these rights. (R.S. Arts. 7469, 7620.)

(b) This code does not recognize any riparian right in the owner of any land the title to which passed out of the State of Texas after July 1, 1895. (R.S. Art. 7619.)

§ 5.002. Definitions

In this chapter and in Chapter 6 of this code, unless the context requires a different definition:

(1) "commission" means the Texas Water Rights Commission;

(2) "board" means the Texas Water Development Board; (R.S. Art. 7477, Sec. 2, as amended.)

(3) "beneficial use" means use of the amount of water which is economically necessary for a purpose authorized by this chapter, when reasonable intelligence and reasonable diligence are used in applying the water to that purpose; (R.S. Art. 7476.)

(4) "water right" means a right acquired under the laws of this state to impound, divert, or use state water; and (R.S. Art. 7542, sen. 1; 60th Legis., Ch. 45, Sec. 2 (part).)

(5) "appropriator" means a person who has made beneficial use of any water, in a lawful manner, under the provisions of any act of the legislature before the enactment of Chapter 171, General Laws, Acts of the 33rd Legislature, 1913, as amended, and who has filed with the State Board of Water Engineers a record of his appropriation as required by the 1913 act, as amended; or a person who makes or has made beneficial use of any water within the limitations of a permit lawfully issued by the Texas Water Rights Commission or one of its predecessors. (R.S. Art. 7473 (part).)

§ 5.003. Streams that Form Boundaries Included

This chapter applies to all streams or other sources of water supply lying upon or forming a part of the boundaries of this state. (R.S. Art. 7618.)

§ 5.004. Commission to Receive Certified Copies of Judgments, Etc.

When any court of record renders a judgment, decree, or order affecting the title to any water right, claim, appropriation, or irrigation facility, or affecting any matter over which the commission is given supervi-

sion by law, the clerk of the court shall immediately transmit to the commission a certified copy of the judgment, decree, or order. (R.S. Art. 7513.)

§ 5.005. Applicability to Works under Federal Reclamation Act

This chapter applies to the construction, maintenance, and operation of irrigation works constructed in this state under the Federal Reclamation Act, as amended (43 U.S.C. Sec. 371 et seq.), to the extent that this chapter is not inconsistent with the federal act or the regulations made under that act by the secretary of the interior. (R.S. Art. 7588.)

[Sections 5.006–5.020 reserved for expansion]

SUBCHAPTER B. RIGHTS IN STATE WATER

Section 5.021. State Water

(a) The water of the ordinary flow, underflow, and tides of every flowing river, natural stream, and lake, and of every bay or arm of the Gulf of Mexico, and the storm water, floodwater, and rainwater of every river, natural stream, canyon, ravine, depression, and watershed in the state is the property of the state.

(b) Water which is imported from any source outside the boundaries of the state for use in the state and which is transported through the beds and banks of any navigable stream within the state or by utilizing any facilities owned or operated by the state is the property of the state. (R.S. Art. 7467, Subsec. (a) (part), (b), as amended.)

§ 5.022. Acquisition of Right to Use State Water

The right to the use of state water may be acquired by appropriation in the manner and for the purposes provided in this chapter. When the right to use state water is lawfully acquired, it may be taken or diverted from its natural channel. (R.S. Art. 7467, Subsec. (a) (part), as amended.)

§ 5.023. Purposes for which Water May Be Appropriated

(a) State water may be appropriated, stored, or diverted for:

- (1) domestic and municipal uses, including water for sustaining human life and the life of domestic animals;
- (2) industrial uses, being processes designed to convert materials of a lower order of value into forms having greater usability and commercial value, including the development of power by means other than hydroelectric;
- (3) irrigation;
- (4) mining and recovery of minerals;
- (5) hydroelectric power;
- (6) navigation;
- (7) recreation and pleasure;
- (8) stock raising;
- (9) public parks; and
- (10) game preserves. (R.S. Art. 7470 (part), as amended; R.S. Art. 7468 (part), as amended.)

(b) State water also may be stored or diverted for any other beneficial use. (R.S. Art. 7468 (part), as amended.)

(c) Unappropriated storm water and floodwater may be appropriated to recharge underground freshwater bearing sands and aquifers in the portion of the Edwards underground reservoir located within Kinney, Uvalde, Medina, Bexar, Comal, and Hays counties if it can be established by expert testimony that an unreasonable loss of state water will not occur and that the water can be withdrawn at a later time for application to a beneficial use. The normal or ordinary flow of a stream or watercourse may never be appropriated, diverted, or used by a permittee for this recharge purpose. (R.S. Art. 7470 (part), as amended.)

(d) When it is put or allowed to sink into the ground, water appropriated under Subsection (b) of this section loses its character and classification as storm water or floodwater and is considered percolating groundwater. (R.S. Art. 7470 (part), as amended.)

(e) The amount of water appropriated for each purpose mentioned in this section shall be specifically appropriated for that purpose, subject to the preferences prescribed in Section 5.024 of this code. (R.S. Art. 7470 (part), as amended.)

(f) The water of any arm, inlet, or bay of the Gulf of Mexico may be changed from salt water to sweet or fresh water and held or stored by dams, dikes, or other structures, and may be taken or diverted for any purpose authorized by this chapter. (R.S. Art. 7468 (part).)

§ 5.024. Appropriation: Preferences

In order to conserve and properly utilize state water, the public welfare requires not only recognition of beneficial uses but also a constructive public policy regarding the preferences between these uses; and it is therefore declared to be the public policy of this state that, in appropriating state water, preference shall be given to the following uses in the order named:

- (1) domestic and municipal uses, including water for sustaining human life and the life of domestic animals;
- (2) industrial uses, being processes designed to convert materials of a lower order of value into forms having greater usability and commercial value, including the development of power by means other than hydroelectric;
- (3) irrigation;
- (4) mining and recovery of minerals;
- (5) hydroelectric power;
- (6) navigation;
- (7) recreation and pleasure; and
- (8) other beneficial uses. (R.S. Art. 7471, as amended.)

§ 5.025. Scope of Appropriative Right

A right to use state water under a permit or a certified filing is limited not only to the amount specifically appropriated but also to the amount which is being or can be beneficially used for the purposes specified in the appropriation, and all water not so used is considered not appropriated. (R.S. Art. 7543; Art. 7542, sen. 2.)

§ 5.026. Perfection of an Appropriation

No right to appropriate water is perfected unless the water has been beneficially used for a purpose stated in the original declaration of intention to appropriate water or stated in a permit issued by the commission or one of its predecessors. (R.S. Art. 7473 (part).)

§ 5.027. Rights between Appropriators

As between appropriators, the first in time is the first in right. (R.S. Art. 7472 (part), as amended.)

§ 5.028. Exception

Any appropriation made after May 17, 1931, for any purpose other than domestic or municipal use, is subject to the right of any city or town to make further appropriations of the water for domestic or municipal use without paying for the water. However, this section does not apply to any stream which constitutes or defines the international boundary between the United States of America and the Republic of Mexico. (R.S. Art. 7472 (part), as amended; 42nd Legis., Ch. 128, Sec. 6.)

§ 5.029. Title to Appropriation by Limitation

When an appropriator from a source of water supply has used water under the terms of a certified filing or a permit for a period of three years, he acquires title to his appropriation by limitation against any other claimant of water from the same source of water supply and against any riparian owner on the same source of water supply. (R.S. Art. 7592.)

§ 5.030. Forfeiture of Appropriation

If any lawful appropriation or use of state water is wilfully abandoned during any three successive years, the right to use the water is forfeited and the water is again subject to appropriation. (R.S. Art. 7544.)

§ 5.031. Annual Report

(a) Not later than March 1 of every year, every person who takes water during the preceding calendar year from a stream or reservoir shall submit a written report to the commission on a form prescribed by the commission. The report shall contain all information required by the commission to aid in administering the water law and in making inventory of the state's water resources. However, with the exception of public utilities and political subdivisions which furnish water for municipal uses, no report is required of persons who take water solely for domestic or livestock purposes. (R.S. Art. 7612, as amended.)

(b) A person who fails to file an annual report with the commission as required by this section is liable to a penalty of \$25, plus \$1 per day for each day he fails to file the statement after March 1. However, the maximum penalty under this section is \$150. The state may sue to recover the penalty. (39th Legis., Ch. 136, Sec. 6, as amended.)

§ 5.032. Records

(a) A person who owns and operates a system of waterworks used for a purpose authorized by this code shall keep a detailed record of daily operations so that the quantity of water taken or diverted each calendar year can be determined.

(b) If the water is used for irrigation, the record must show the number of acres irrigated, the character of the crops grown, and the yield per acre. No survey is required to determine the exact number of acres irrigated. (R.S. Art. 7611.)

§ 5.033. Eminent Domain

The right to take water necessary for domestic and municipal supply purposes is primary and fundamental, and the right to recover from other uses water which is essential to domestic and municipal supply purposes is paramount and unquestioned in the policy of the state. All political subdivisions of the state and constitutional governmental agencies exercising delegated legislative powers have the power of eminent domain, to be exercised as provided by law, for domestic, municipal, and manufacturing uses, and for other purposes authorized by this code, including the irrigation of lands for all requirements of agricultural employment. (42nd Legis., Ch. 128, Sec. 3.)

§ 5.034. Reservoir Site: Land and Rights-of-Way

An appropriator who is authorized to construct a dam or reservoir is granted the right-of-way, not to exceed 100 feet wide, and the necessary area for the site, over any public school land, university land, or asylum land of this state, and the use of the rock, gravel, and timber on the site and right-of-way for construction purposes, after paying compensation as determined by the commission. An appropriator may acquire the reservoir site and rights-of-way over private land by contract. (R.S. Art. 7582.)

§ 5.035. Condemnation of Private Property

(a) An appropriator may obtain rights-of-way over private land and may obtain the land necessary for pumping plants, intakes, headgates, and storage reservoirs by condemnation.

(b) The party obtaining private property by condemnation shall cause damages to be assessed and paid for as provided by the statutes of this state relating to eminent domain.

(c) If the party exercising the power granted by this section is not a corporation, district, city, or town, he shall apply to the commission for the condemnation.

(d) The commission shall investigate the proposed condemnation. After its investigation the commission may give notice to the party owning the land proposed to be condemned and hold a hearing on the proposed condemnation.

(e) If after a hearing the commission determines that the condemnation is necessary, the commission may institute condemnation proceedings in the name of the State of Texas for the use and benefit of the party who applied for the condemnation and all others similarly situated.

(f) The parties at whose instance a condemnation suit is instituted shall pay the costs of the suit and condemnation in proportion to the benefits received by each party as fixed by the commission. Before using any of the condemned rights or property, a party receiving the rights or property shall pay the amount of costs fixed by the commission.

(g) If, after the costs of the condemnation proceedings have been paid, a party seeks to take the benefits of the condemnation proceedings, he shall apply to the commission for the benefits. The commission may grant the application and fix the fees and charges to be paid by the applicant. (R.S. Art. 7583, as amended.)

§ 5.036. Conserved or Stored Water: Supply Contract

(a) A person, association of persons, corporation, or water improvement or irrigation district having in possession and control any storm water, floodwater, or rainwater that is conserved or stored as authorized by this chapter may contract to supply the water to any person, association of persons, corporation, or water improvement or irrigation district having the right to acquire use of the water.

(b) The price and terms of the contract shall be just and reasonable and without discrimination; and the contract is subject to the same revision and control as provided in this code for other water rates and charges. If any person uses the stored or conserved water without first entering into a contract with the party that conserved or stored it, the user shall pay for the use at a rate determined by the commission to be just and reasonable, subject to court review as in other cases. (R.S. Art. 7547.)

§ 5.037. Water Suppliers: Rules and Regulations

Every person, association of persons, corporation, or irrigation district conserving or supplying water for any of the purposes authorized by this chapter shall make and publish reasonable rules and regulations relating to:

- (1) the method of supply;
 - (2) the use and distribution of the water; and
 - (3) the procedure for applying for the water and paying for it.
- (R.S. Art. 7570.)

§ 5.038. Rights of Owners of Land Adjoining Canal, Etc.

(a) A person who owns or holds a possessory interest in land adjoining or contiguous to a canal, ditch, flume, lateral, dam, reservoir, or lake, constructed and maintained under the provisions of this chapter, and who has secured a right to the use of water in the canal, ditch, flume, lateral, dam, reservoir, or lake, is entitled to be supplied from the canal, ditch, flume, lateral, dam, reservoir, or lake with water for irrigation of the land, and for mining, milling, manufacturing, development of power, and stock raising, in accordance with the terms of his contract. (R.S. Art. 7555.)

(b) If the person, association of persons, or corporation owning or controlling the water, and the person who owns or holds a possessory interest in the adjoining land cannot agree on a price for a permanent water right, or for the use of enough water for irrigation of the person's land, or for mining, milling, manufacturing, development of power, or stock raising, then the party owning or controlling the water, if he has any water not contracted to others, shall furnish the water necessary for these purposes at reasonable and nondiscriminatory prices. (R.S. Art. 7556.)

§ 5.039. Distribution of Water During Shortage

(a) If a shortage of water in a water supply results from drouth, accident, or other cause, the water to be distributed shall be divided among all customers pro rata, according to the amount each may be entitled to, so that preference is given to no one and everyone suffers alike.

(b) Nothing in Subsection (a) of this section precludes the person, association of persons, or corporation owning or controlling the water from

supplying water to a person who has a prior vested right to the water under the laws of this state. (R.S. Arts. 7557, 7558.)

§ 5.040. Permanent Water Right

(a) A permanent water right is an easement and passes with the title to land.

(b) A written instrument conveying a permanent water right may be recorded in the same manner as any other instrument relating to a conveyance of land.

(c) The owner of a permanent water right is entitled to use water according to the terms of his contract. If there is no contract, the owner is entitled to use water at a just, reasonable, and nondiscriminatory price. (R.S. Art. 7559.)

§ 5.041. Denial of Water: Complaint

(a) Any person entitled to receive or use water from any canal, ditch, flume, lateral, dam, reservoir, or lake, or from any conserved or stored supply may present to the commission a written petition showing:

(1) that he is entitled to receive or use the water;

(2) that he is willing and able to pay a just and reasonable price for the water;

(3) that the party owning or controlling the water supply has water not contracted to others and available for the petitioner's use; and

(4) that the party owning or controlling the water supply fails or refuses to supply the available water to the petitioner, or that the price or rental demanded for the available water is not reasonable and just, or is discriminatory.

(b) If the petition is accompanied by a deposit of \$25, the commission shall make a preliminary investigation of the complaint and determine whether or not there is probable ground for the complaint. (R.S. Art. 7560, sen. 1.)

(c) If, after preliminary investigation, the commission determines that probable grounds exist for the complaint, the commission shall enter an order setting a time and place for a hearing on the petition.

(d) The commission may require the complainant to make an additional deposit or execute a bond satisfactory to the commission, in an amount fixed by the commission, conditioned on the payment of all costs of the proceeding.

(e) At least 20 days before the date set for the hearing, the commission shall transmit by registered mail a certified copy of the petition and a certified copy of the hearing order to the person against whom the complaint is made. (R.S. Art. 7561.)

(f) The commission shall hold a hearing on the complaint at the time and place stated in the order. It may hear evidence orally or by affidavit in support of or against the complaint, and it may hear arguments. On completion of the hearing, the commission shall render a written decision. (R.S. Art. 7562.)

(g) If, after its preliminary investigation, the commission determines that no probable ground exists for the complaint, the commission shall dismiss the complaint. The commission may either return the deposit or pay it into the state treasury. (R.S. Art. 7560, sen. 2.)

§ 5.042. Delivering Water Down Banks and Beds

Under rules prescribed by the commission, a person, association of persons, corporation, or water improvement or irrigation district supplying stored or conserved water under contract as provided in this chapter may use the bank and bed of any flowing natural stream in the state to convey the water from the place of storage to the place of use, or to the diversion plant of the appropriator. The commission shall prescribe rules for this purpose. (R.S. Art. 7548, as amended.)

§ 5.043. Recordation of Conveyance of Irrigation Work

(a) A conveyance of a ditch, canal, or reservoir, or other irrigation work, or an interest in such an irrigation work must be executed and acknowledged in the same manner as a conveyance of real estate. Such a conveyance must be recorded in the deed records of the county in which the ditch, canal, or reservoir is located.

(b) If a conveyance of property covered by Subsection (a) of this section is not made in the prescribed manner, it is null and void against subsequent purchasers in good faith and for valuable consideration. (R.S. Art. 7571.)

§ 5.044. Roads and Highways

(a) An appropriator has the right to construct ditches, canals, or other conveyances along or across all roads and highways necessary for the construction of waterworks. Bridges, culverts, or siphons shall be constructed at all road and highway crossings as necessary to prevent any impairment of the uses of the road or highway.

(b) If any public road, highway, or public bridge is located on the ground necessary for a damsite, reservoir, or lake, the commissioners court shall change the road and remove the bridge so that it does not interfere with the construction of the proposed dam, reservoir, or lake. The party desiring to construct the dam, reservoir, or lake shall pay the expense of moving the bridge or roadway. (R.S. Art. 7585.)

§ 5.045. Ditches and Canals

An appropriator is entitled to construct ditches and canals along or across any stream of water. (R.S. Art. 7586.)

§ 5.046. Return Unused Water

A person who takes or diverts water from a running stream for the purposes authorized by this code shall conduct surplus water back to the stream from which it was taken if the water can be returned by gravity flow and it is reasonably practicable to do so. (R.S. Art. 7579.)

§ 5.047. Failure to Fence

If a person, association of persons, corporation, or water improvement or irrigation district that owns or controls a ditch, canal, reservoir, dam, or lake does not keep it securely fenced, there is no cause of action against the owner of livestock that trespass. (R.S. Art. 7593.)

§ 5.048. Cost of Maintaining Irrigation Ditch

(a) If an irrigation ditch is owned or used by two or more persons, mutual or cooperative companies, or corporations, each party who has an

interest in the ditch shall pay his proportionate share of the cost of operating and maintaining the ditch.

(b) If a person who owns a joint interest in a ditch refuses to do or to pay for his proportionate share of the work that is reasonably necessary for the proper maintenance and operation of the ditch, the other owners may, after giving him 10 days' written notice, proceed themselves to do his share of the necessary work and recover from him the reasonable expense or value of the work or labor performed. The action for the cost of the work may be brought in any court having jurisdiction over the amount in controversy. (R.S. Art. 7578.)

§ 5.049. Examination and Survey

A person may make any necessary examination and survey in order to select the most advantageous sites for a reservoir and rights-of-way to be used for any of the purposes authorized by this chapter; and for this purpose a person may enter the land or water of any other person. (R.S. Art. 7580.)

§ 5.050. Tidewater Gates, Etc.

An appropriator authorized to take water for irrigation may, subject to the laws of the United States and the regulations made under its authority, construct gates, or breakwaters, dams, or dikes with gates, in waters wholly in this state, as necessary to prevent pollution of the fresh water of any river, bayou, or stream due to the ebb and flow of the tides of the Gulf of Mexico.

(b) The work shall be done in such a manner that navigation of vessels on the stream is not obstructed; and where any gate is used, the appropriator shall at all times keep a competent person at the gate to allow free navigation.

(c) A dam, dike, or breakwater constructed under this section may not be placed at any point except where Gulf tides ebb and flow, and may not be constructed so as to obstruct the flow of fresh water to any appropriator or riparian owner downstream. (R.S. Art. 7551.)

§ 5.051. Irrigation: Lien on Crops

(a) A person who constructs a ditch, canal, dam, lake, or reservoir for the purpose of irrigation and who leases, rents, furnishes, or supplies water to any person for irrigation, with or without a contract, has a preference lien superior to every other lien on the irrigated crops. However, when any irrigation district or conservation and reclamation district obtains a water supply under contract with the United States, the board of directors of the district, by resolution entered in its minutes, with the consent of the secretary of the interior, may waive the preference lien in whole or in part. (R.S. Art. 7596, as amended.)

(b) To enforce the lien, the lienholder has all the rights and remedies prescribed by Articles 5222-5239, Revised Civil Statutes of Texas, 1925. (R.S. Art. 7597.)

§ 5.052. Activities under the Federal Reclamation Act

The Secretary of the Interior of the United States is authorized to conduct any activities in this state necessary to perform his duties under the

Federal Reclamation Act, as amended (43 U.S.C. Sec. 371 et seq.). (R.S. Art. 7587.)

[Sections 5.053–5.080 reserved for expansion]

SUBCHAPTER C. UNLAWFUL USE, DIVERSION, WASTE, ETC.

Section 5.081. Unlawful Use of State Water

(a) No person may wilfully take, divert, or appropriate any state water for any purpose without first complying with all applicable requirements of this chapter.

(b) A person who violates any provision of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$100 or by confinement in the county jail for not more than six months or by both.

(c) A person commits a separate offense each day he continues to take, divert, or appropriate water in violation of this section.

(d) Possession of state water when the right to its use has not been acquired according to the provisions of this chapter is prima facie evidence of a violation of this section. (R.S. Art. 7520.)

§ 5.082. Unlawful Use: Civil Penalty

(a) A person who wilfully takes, diverts, or appropriates state water without complying with the applicable requirements of this chapter is also liable to a penalty of \$100 per day for each day he continues the taking, diversion, or appropriation. (R.S. Art. 7521.)

(b) The state may recover the penalties prescribed in Subsection (a) of this section by suit brought for that purpose in a court of competent jurisdiction. (R.S. Art. 7522.)

§ 5.083. Other Unlawful Taking

(a) No person may wilfully open, close, change, or interfere with any headgate or water box without lawful authority.

(b) No person may wilfully use water or conduct water through his ditch or upon his land unless he is entitled to do so.

(c) A person who violates any provision of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$10 nor more than \$1,000 or by confinement in the county jail for not more than six months.

(d) The possession or use of water on his land by a person not entitled to the water by the provisions of this code is prima facie evidence of a violation of this section. (R.S. Art. 7575.)

§ 5.084. Sale of Permanent Water Right Without a Permit

(a) No person may sell or offer to sell a permanent water right unless he has perfected a right to appropriate state water by a certified filing, or unless he has obtained a permit from the commission, authorizing the use of the water for the purposes for which the permanent water right is conveyed.

(b) A person who violates Subsection (a) of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than

\$100 nor more than \$1,000 or by confinement in the county jail for not more than one year or by both. (R.S. Art. 7554.)

§ 5.085. Interwatershed Transfers

(a) No person may take or divert any of the water of the ordinary flow, underflow, or storm flow of any stream, watercourse, or watershed in this state into any other natural stream, watercourse, or watershed to the prejudice of any person or property situated within the watershed from which the water is proposed to be taken or diverted. (R.S. Art. 7589.)

(b) No person may transfer water from one watershed to another without first applying for and receiving a permit from the commission to do so. Before issuing such a permit, the commission shall hold a hearing to determine the rights that might be affected by the transfer. The commission shall give notice and hold the hearing in the manner prescribed by its rules. (R.S. Art. 7590, as amended.)

(c) A person who takes or diverts water in violation of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$100 nor more than \$500 or by confinement in the county jail for not more than six months.

(d) A person commits a separate offense each day he continues to take or divert water in violation of this section. (R.S. Art. 7591.)

§ 5.086. Overflow Caused by Diversion of Water

(a) No person may divert or impound the natural flow of surface waters in this state, or permit a diversion or impounding by him to continue, in a manner that damages the property of another by the overflow of the water diverted or impounded.

(b) A person whose property is injured by an overflow of water caused by an unlawful diversion or impounding has remedies at law and in equity and may recover damages occasioned by the overflow.

(c) The prohibition of Subsection (a) of this section does not in any way affect the construction and maintenance of levees and other improvements to control floods, overflows, and freshets in rivers, creeks, and streams, or the construction of canals for conveying water for irrigation or other purposes authorized by this code. However, this subsection does not authorize any person to construct a canal, lateral canal, or ditch that obstructs a river, creek, bayou, gully, slough, ditch, or other well-defined natural drainage.

(d) Where gullies or sloughs have cut away or intersected the banks of a river or creek to allow floodwaters from the river or creek to overflow the land nearby, the owner of the flooded land may fill the mouth of the gullies or sloughs up to the height of the adjoining banks of the river or creek without liability to other property owners. (40th Legis., Ch. 56, Sec. 1, as amended.)

§ 5.087. Diversion of Water on International Stream

(a) When storm water or floodwater is released from a dam or reservoir on an international stream, and the water is designated for use or storage downstream by a specified user who is legally entitled to receive

it, no other person may store, divert, appropriate, or use the water, or interfere with its passage downstream. (55th Legis., Ch. 241, Sec. 1, sen. 1.)

(b) The commission may make and enforce regulations and orders to implement the provisions of this section, including regulations and orders designed to:

(1) establish an orderly system for water releases and diversions, in order to protect vested rights and to avoid the loss of released water;

(2) prescribe the time that releases of water may begin and end;

(3) determine the proportionate quantities of the released water in transit and the water that would have been flowing in the stream without the addition of the released water;

(4) require each owner or operator of a dam or reservoir on the stream between the point of release and the point of destination to allow free passage of the released water in transit; and

(5) establish other requirements the commission considers necessary to effectuate the purposes of this section. (55th Legis., Ch. 241, Sec. 1, sen. 2, 3.)

(c) Orders made by the commission to effectuate its regulations under this section need not be published, but the commission shall transmit a copy of every such order by certified mail to each diverter of water and to each reservoir owner on the stream between the point of release and the point of destination of the released water, as shown by the records of the commission. (55th Legis., Ch. 241, Sec. 1, sen. 4, 5.)

(d) A person who violates any provision of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$100 or by confinement in the county jail for not more than six months or by both. A person commits a separate offense each day he continues to violate this section. (55th Legis., Ch. 241, Sec. 2.)

§ 5.088. Destruction of Waterworks

(a) No person may wilfully cut, dig, break down, destroy, or injure, or open a gate, bank, embankment, or side of any ditch, canal, reservoir, flume, tunnel or feeder, pump or machinery, building, structure, or other work which is the property of another, or in which another owns an interest, or which is lawfully possessed or being used by another, and which is used for irrigation, milling, mining, manufacturing, the development of power, domestic purposes, or stock raising, with intent to:

(1) maliciously injure a person, association, corporation, water improvement or irrigation district;

(2) gain advantage for himself; or

(3) take or steal water, or cause water to run out or waste out of the ditch, canal, or reservoir, feeder, or flume for his own advantage, or to the injury of a person lawfully entitled to the use of the water or the use or management of the ditch, canal, tunnel, reservoir, feeder, flume, machine, structure, or other irrigation work.

(b) A person who violates any provision of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$10 nor more than \$1,000 or by confinement in the county jail for not more than two years or by both. (R.S. Art. 7576.)

§ 5.089. Johnson Grass or Russian Thistle

(a) No person who owns, leases, or operates a ditch, canal, or reservoir, or who cultivates land abutting a reservoir, ditch, flume, canal wasteway, or lateral, may permit Johnson grass or Russian thistle to go to seed on the waterway within 10 feet of the high-water line, if the waterway crosses or lies on the land owned or controlled by him.

(b) A person who violates any provision of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$25 nor more than \$500 or by confinement in the county jail for not less than 30 days nor more than six months or by both. (R.S. Art. 7598.)

(c) The provisions of this section are not applicable in Tom Green, Sterling, Irion, Schleicher, McCullough, Brewster, Menard, Maverick, Kinney, Val Verde, and San Saba counties. (R.S. Art. 7599.)

§ 5.090. Polluting and Littering

(a) No person may deposit in any canal, lateral, reservoir, or lake, used for a purpose named in this chapter, the carcass of any dead animal, tin cans, discarded buckets or pails, garbage, ashes, baling or barbed wire, earth, offal, or refuse of any character, or any other article which might pollute the water or obstruct the flow of a canal or similar structure.

(b) A person who violates any provision of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$10 nor more than \$100 or by confinement in the county jail for not more than six months or by both. (P.C. Art. 1362.)

§ 5.091. Interference with Delivery of Water under Contract

(a) No person may wilfully take, divert, appropriate, or interfere with the delivery of conserved or stored water under Section 5.042 of this code.

(b) A person who violates any provision of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$100 or by confinement in the county jail for not more than six months or by both.

(c) A person commits a separate offense each day he continues to violate this section. (R.S. Art. 7549.)

(d) On the petition of any interested party, the district court of any county through which the water may pass shall enjoin any actual or threatened act prohibited by this section. (R.S. Art. 7550.)

§ 5.092. Wasteful Use of Water

A person who owns or has a possessory right to land contiguous to a canal or irrigation system and who acquires the right by contract to use the water from it commits waste if he:

- (1) permits the excessive or wasteful use of water by any of his agents or employees; or
- (2) permits the water to be applied to anything but a beneficial use. (R.S. Art. 7606 (part).)

§ 5.093. Abatement of Waste as Public Nuisance

(a) A person who permits an unreasonable loss of water through faulty design or negligent operation of any waterworks using water for a purpose named in this chapter commits waste; and the commission may

declare the works causing the waste to be a public nuisance. The commission may take the necessary action to abate the nuisance. Also, any person who may be injured by the waste may sue in the district court having jurisdiction over the works causing the waste to have the operation of the works abated as a public nuisance. (R.S. Arts. 7607, 7610.)

(b) In case of a wasteful use of water prohibited by Section 5.092 of this code, the commission shall declare the use to be a public nuisance and shall act to abate the nuisance by directing the person supplying the water to close the water gates of the person wasting the water and to keep them closed until the commission determines that the unlawful use of water is corrected. (R.S. Art. 7606 (part).)

§ 5.094. Penalty for Use of Works Declared Public Nuisance

(a) No person may operate or attempt to operate any waterworks or irrigation system or use any water under contract with any waterworks or irrigation system that has been previously declared to be a public nuisance.

(b) A person who violates any provision of this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$1,000 or by confinement in the county jail for not more than one year or by both. (R.S. Art. 7608.)

§ 5.095. Penalty for Waste

A person who wilfully or knowingly commits waste as provided in Section 5.092 or 5.093(a) of this code is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$500 or by confinement in the county jail for not more than 90 days or by both. (R.S. Art. 7613.)

§ 5.096. Obstruction of Navigable Streams

(a) No person may obstruct the navigation of any stream which can be navigated by steamboats, keelboats, or flatboats, by cutting and felling trees or by building on or across the stream any dike, mill dam, bridge, or other obstruction.

(b) A person who violates any provision of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$50 nor more than \$500. (P.C. Art. 783.)

[Sections 5.097–5.120 reserved for expansion]

SUBCHAPTER D. PERMITS TO USE STATE WATER

Section 5.121. Permit Required

Except as provided in Section 5.140 of this code, no person may appropriate any state water, or begin construction of any work designed for the storage, taking, or diversion of water, without first obtaining a permit from the commission to make the appropriation. (R.S. Art. 7492, as amended.)

§ 5.122. Permit Preferences

The commission shall give preference to applications in the order declared in Section 5.024 of this code and to applications which will effectuate the maximum utilization of water and are calculated to prevent the escape of water without contribution to a beneficial public service. (42nd Legis., Ch. 128, Sec. 4 (part).)

§ 5.123. Application for Permit

- (a) An application to appropriate unappropriated state water must:
 - (1) be in writing and sworn to;
 - (2) contain the name and post-office address of the applicant;
 - (3) identify the source of water supply;
 - (4) state the nature and purposes of the proposed use and the amount of water to be used for each purpose;
 - (5) state the location and describe the proposed facilities;
 - (6) state the time within which the proposed construction is to begin; and
 - (7) state the time required for the application of water to the proposed use.
- (b) If the proposed use is irrigation, the application must also contain:
 - (1) a description of the land proposed to be irrigated; and
 - (2) an estimate of the total acreage to be irrigated.
- (c) If the application is for a seasonal permit, under the provisions of Section 5.136 of this code, the application must also state the months or seasons of the year the water is to be used.
- (d) If the application is for a temporary permit, under the provisions of Section 5.137 of this code, the application must also state the period of the proposed temporary use. (R.S. Art. 7493, as amended.)

§ 5.124. Map or Plat

- (a) The application must be accompanied by a map or plat drawn on tracing linen, on a scale not less than one inch equals 2,000 feet.
- (b) The map or plat must show substantially:
 - (1) the location and extent of the proposed facilities;
 - (2) the location of the headgate, intake, pumping plant, or point of diversion by course and distance from permanent natural objects or landmarks;
 - (3) the location of the main ditch or canal and the locations of the laterals or branches of the main ditch or canal;
 - (4) the course of the water supply;
 - (5) the position, waterline, and area of all lakes, reservoirs, or basins intended to be used or created;
 - (6) the point of intersection of the proposed facilities with any other ditch, canal, lateral, lake, or reservoir; and
 - (7) the location of any ditch, canal, lateral, reservoir, lake, dam, or other similar facility already existing in the area, drawn in a different colored ink than that used to represent the proposed facilities, and the name of the owner of the existing facility.
- (c) The map or plat must also contain:
 - (1) the name of the proposed facility or enterprise;
 - (2) the name of the applicant; and

(3) a certificate of the surveyor, giving the date of his survey, his name and post-office address, and the date of the application which the certificate accompanies. (R.S. Art. 7494.)

§ 5.125. Commission Requirements

(a) If the proposed taking or diversion of water for irrigation exceeds nine cubic feet per second, the commission may require additional information as prescribed by this section.

(b) The commission may require a continuous longitudinal profile, cross-sections of the proposed channel, and the detail plans of any proposed structure, on any scales and with any definition, the commission considers necessary or expedient.

(c) If the application proposes construction of a dam greater than six feet in height, either for diversion or storage, the commission may also require filing a copy of all plans and specifications and a copy of the engineer's field notes of any survey of the lake or reservoir. No work on the project shall proceed until approval of the plans is obtained.

(d) If the applicant is a corporation, the commission may require filing a certified copy of its articles of incorporation, a statement of the names and addresses of its directors and officers, and a statement of the amount of its authorized capital stock and its paid-up capital stock.

(e) If the applicant is not a corporation, the commission may require filing a sworn statement showing the name and address of each person interested in the appropriation, the extent of his interest, and his financial condition. (R.S. Art. 7500.)

§ 5.126. Additional Requirements: Drainage Plans

If the commission believes that the efficient operation of any existing or proposed irrigation system may be adversely affected by lack of adequate drainage facilities incident to the work proposed to be done by an applicant, the commission may require the applicant to submit plans for drainage adequate to guard against any injury which the proposed work may entail. (R.S. Art. 7502.)

§ 5.127. Payment of Fee

If the applicant is not exempted from payment of the filing fee under Section 6.069 of this code, he shall pay the filing fee prescribed by Section 6.068(b) of this code at the time he files the application. The commission shall not record, file, or consider the application until the fee is paid. (R.S. Art. 7501.)

§ 5.128. Review of Application; Amendment

The commission shall determine whether the application, maps, and other materials comply with the requirements of this chapter and the regulations of the commission. The commission may require amendment of the application, maps, or other materials to achieve necessary compliance. (R.S. Art. 7504.)

§ 5.129. Recording Applications

(a) The commission shall record all applications for appropriations in a well-bound book kept for that purpose in the commission's office.

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(b) The commission shall index the applications alphabetically in the name of:

- (1) the applicant;
 - (2) the stream or source from which the appropriation is sought to be made; and
 - (3) the county in which the appropriation is sought to be made.
- (R.S. Art. 7505.)

§ 5.130. Examination and Denial of Application Without Hearing

(a) The commission shall make a preliminary examination of the application and, if it appears that there is no unappropriated water in the source of supply or that the proposed appropriation should not be allowed for other reasons, the commission may deny the application.

(b) If the commission denies the application under this section and the applicant elects not to proceed further, the commission may return to the applicant any part of the fee submitted with the application. (R.S. Art. 7503.)

§ 5.131. Notice of Hearing

(a) The commission shall give notice of the hearing on the application as prescribed by this section.

(b) In the notice the commission shall:

- (1) state the name and address of the applicant;
- (2) state the date the application was filed;
- (3) state the purpose and extent of the proposed appropriation of water;
- (4) identify the source of supply and the place where the water is to be stored or taken or diverted from the source of supply;
- (5) specify the time and place of the hearing; and
- (6) give any additional information the commission considers necessary.

(c) If the proposed use is for irrigation, the commission shall include in the notice a general description of the location and area of the land to be irrigated. (R.S. Art. 7508.)

(d) The notice shall be published once a week for two consecutive weeks before the date stated in the notice for the hearing in some newspaper having a general circulation in the section of the state where the source of water is located.

(e) The commission shall also mail a copy of the notice by first-class mail, postage prepaid, to each claimant or appropriator of water from the source of water supply, the record of whose claim or appropriation has been filed in the office of the commission. The notice shall also be mailed by first-class mail, postage prepaid, to all navigation districts within the watershed concerned. The inadvertent failure of the commission to mail a notice to a navigation district which is not a claimant or appropriator of water does not prevent the hearing on the application.

(f) The notice shall be mailed and first published not less than 20 days before the date set for the hearing. (R.S. Art. 7509, as amended.)

§ 5.132. Hearing

At the time and place stated in the notice, the commission shall hold a hearing on the application. Any person may appear at the hearing, in person or by attorney, or may enter his appearance in writing. Any per-

son who appears may present objection to the issuance of the permit. The commission may receive evidence, orally or by affidavit, in support of or in opposition to the issuance of the permit, and it may hear arguments. (R.S. Art. 7510, sen. 1, 2, 3.)

§ 5.133. Action on Application

(a) After the hearing the commission shall make a written decision granting or denying the application. The application may be granted or denied in whole or in part. (R.S. Art. 7510, sen. 4, 5.)

(b) The commission shall grant the application only if:

(1) the application conforms to the requirements prescribed by this chapter and is accompanied by the prescribed fee;

(2) unappropriated water is available in the source of supply; and

(3) the proposed appropriation:

(A) contemplates the application of water to any beneficial use;

(B) does not impair existing water rights or vested riparian rights; and

(C) is not detrimental to the public welfare. (R.S. Art. 7506, as amended; R.S. Art. 7507.)

§ 5.134. Issuance of Permit

(a) On approval of an application, the commission shall issue a permit to the applicant. The applicant's right to take and use water is limited to the extent and purposes stated in the permit.

(b) The permit shall be in writing and attested by the seal of the commission, and it shall contain substantially the following information:

(1) the name of the person to whom the permit is issued;

(2) the date the permit is issued;

(3) the date the original application was filed;

(4) the use or purpose for which the appropriation is to be made;

(5) the amount or volume of water authorized to be appropriated for each purpose;

(6) a general description of the source of supply from which the appropriation is proposed to be made;

(7) the time within which construction or work must begin and the time within which it must be completed; and

(8) any other information the commission prescribes.

(c) If the appropriation is for irrigation, the commission shall also place in the permit a description and statement of the approximate area of the land to be irrigated. (R.S. Art. 7515, as amended.)

§ 5.135. Recording of Permit

(a) The commission shall transmit the permit by registered mail to the county clerk of the county in which the appropriation is to be made. (R. S. Art. 7516.)

(b) When the county clerk receives the permit and is paid the recording fee (as prescribed by Article 3930, Revised Civil Statutes of Texas, 1925, as amended), he shall file and record the permit in a well-bound book kept for that purpose. He shall index the permit alphabetically in

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the name of the applicant and of the stream or source of water supply. After he has recorded the permit, the county clerk shall deliver the permit, on demand, to the applicant. (R.S. Art. 7517.)

(c) When the permit is filed in the office of the county clerk, it is constructive notice of:

- (1) the filing of the application;
- (2) the issuance of the permit, and
- (3) all the rights arising under the filing of the application and the issuance of the permit. (R.S. Art. 7518.)

§ 5.136. Seasonal Permits

(a) The commission may issue seasonal permits in the same manner that it issues regular permits. The provisions of this chapter governing issuance of regular permits apply to issuance of seasonal permits.

(b) The right to take, use, or divert water under seasonal permit is limited to the portion or portions of the calendar year stated in the permit.

(c) In a seasonal permit the commission shall specify the conditions necessary to fully protect prior appropriations or vested rights on the stream. (R.S. Art. 7467c, Sec. (1), as amended.)

§ 5.137. Temporary Permits

(a) The commission may issue temporary permits for beneficial purposes to the extent that they do not interfere with or adversely affect prior appropriations or vested rights on the stream. The provisions of this chapter governing issuance of regular permits apply to issuance of temporary permits.

(b) The commission may prescribe rules governing notice and procedure for the issuance of temporary permits.

(c) As between temporary permits, the one applied for first has priority.

(d) The commission may not issue a temporary permit for a period exceeding three calendar years.

(e) A temporary permit does not vest in its holder a permanent right to the use of water.

(f) A temporary permit expires and shall be cancelled by the commission in accordance with the terms of the permit.

(g) The commission may prescribe by rule the fees to be paid for issuance of temporary permits, but no fee for issuance or extension of a temporary permit shall exceed \$500. (R.S. Art. 7467c, Sec. (2), as amended.)

§ 5.138. Permits for Storage for Project Development

The commission may issue permits for storage solely for the purpose of optimum development of projects. The commission may convert these permits to permits for beneficial use if application to have them converted is made to the commission. (R.S. Art. 7477, Sec. 8(a), sen. 2, as amended.)

§ 5.139. Date of Priority

When the commission issues a permit, the priority of the appropriation of water and the claimant's right to use the water dates from the date of filing of the application. (R.S. Art. 7523.)

§ 5.140. Domestic and Livestock Reservoir—Permit Exemption

Without obtaining a permit, a person may construct on his own property a dam or reservoir to impound or contain not more than 200 acre-feet of water for domestic and livestock purposes. (39th Legis., Ch. 136, Sec. 5, subsec. 1, as amended.)

§ 5.141. Domestic and Livestock Reservoir—Use for Other Purposes

(a) The owner of a dam or reservoir exempted under Section 5.140 of this code who desires to use water from the dam or reservoir for purposes other than domestic or livestock use shall obtain a permit to do so. He may obtain a regular permit, a seasonal permit, or a permit for a term of years. He may elect to obtain the permit by proceeding under this section or under the other provisions of this chapter governing issuance of permits. (39th Legis., Ch. 136, Sec. 5, subsec. 2 (part), subsec. 6 (part), subsec. 7, as amended.)

(b) If the applicant elects to proceed under this section, he shall submit to the commission a sworn application, on a form furnished by the commission, containing the following information:

- (1) the name and post-office address of the applicant;
- (2) the nature and purpose of the use and the amount of water to be used annually for each purpose;
- (3) the major watershed and the tributary (named or unnamed) on which the dam or reservoir is located;
- (4) the county in which the dam or reservoir is located;
- (5) the approximate distance and direction from the county seat of the county to the location of the dam or reservoir;
- (6) the survey or the portion of the survey on which the dam or reservoir is located and, to the best of the applicant's knowledge and belief, the distance and direction of the midpoint of the dam or reservoir from a corner of the survey, which information the commission may require to be marked on an aerial photograph or map furnished by the commission;
- (7) the approximate surface area, to the nearest acre, of the reservoir when it is full, and the average depth in feet when it is full; and
- (8) the approximate number of square miles in the drainage area above the dam or reservoir. (39th Legis., Ch. 136, Sec. 5, subsec. 2 (part), as amended.)

(c) If the permit is sought for irrigation, the application must also specify:

- (1) the total number of irrigable acres in the area;
- (2) the number of acres to be irrigated within the area in any one year; and
- (3) the approximate distance and direction of the land to be irrigated from the midpoint of the dam or reservoir. (39th Legis., Ch. 136, Sec. 5, subsec. 2 (part), as amended.)

(d) Before the commission may approve the application and issue the permit, it shall give notice and hold a hearing as prescribed by this section.

(e) In the notice the commission shall:

- (1) state the name and post-office address of the applicant;
- (2) state the date the application was filed;

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- (3) state the purpose and extent of the proposed appropriation of water;
- (4) identify the source of supply and the place where the water is stored; and
- (5) specify the time and place of the hearing. (39th Legis., Ch. 136, Sec. 5, subsec. 3, as amended.)
- (f) The notice shall be published only once, at least 20 days before the date stated in the notice for the hearing on the application, in a newspaper having general circulation in the county where the dam or reservoir is located. At least 15 days before the date set for the hearing, the commission shall transmit a copy of the notice by first-class mail to each person whose claim or appropriation has been filed with the commission and whose diversion point is downstream from that described in the application. (39th Legis., Ch. 136, Sec. 5, subsec. 4, as amended.)
- (g) The applicant shall pay the filing fee prescribed by Section 6.068(b) of this code at the time he files the application. (39th Legis., Ch. 136, Sec. 5, subsec. 5, as amended.)
- (h) The commission shall approve the application and issue the permit as applied for, in whole or in part, if it determines that:
 - (1) there is unappropriated water in the source of supply;
 - (2) the applicant has met the requirements of this section;
 - (3) the water is to be used for a beneficial purpose;
 - (4) the proposed use is not detrimental to the public welfare or to the welfare of the locality; and
 - (5) the proposed use will not impair existing water rights. (39th Legis., Sec. 5, subsec. 6 (part), as amended.)

§ 5.142. Approval for Alterations

All holders of permits and certified filings shall obtain the approval of the commission before making any alterations, enlargements, extensions, or other changes to any reservoir, dam, main canal, or diversion work upon which a permit has been granted or a certified filing recorded. A detailed statement and plans for alterations or changes shall be filed with and approved by the commission before the alterations or changes are made. This section does not apply to the ordinary maintenance or emergency repair of the facility. (R.S. Art. 7495, as amended.)

§ 5.143. When Construction Must Begin

(a) If a person's permit is for appropriation by direct diversion, he shall begin construction of the proposed facilities within 90 days after the date his permit is issued. He shall work diligently and continuously to the completion of the construction. The commission may, by entering an order of record, extend the time for beginning construction for a period not to exceed 12 months after the date the permit was issued. (R.S. Art. 7519, sen. 1 (part).)

(b) If the permit contemplates construction of a storage reservoir, construction shall begin within the time fixed by the commission, not to exceed two years after the date the permit is issued. The commission, by entering an order of record, may extend the time for beginning construction. The commission may fix fees, not to exceed \$1,000, for extending the time to begin construction of reservoirs. (R.S. Arts. 7536, 7537.)

§ 5.144. Forfeitures and Cancellation of Permit for Inaction

(a) If a permittee fails to begin construction within the time specified in Section 5.143 of this code, he forfeits all rights to the permit, subject to notice and hearing as prescribed by this section.

(b) After beginning construction, if the appropriator fails to work diligently and continuously to the completion of the work, the appropriation is subject to cancellation in whole or in part, subject to notice and hearing as prescribed by this section.

(c) If the commission believes that an appropriation or permit should be declared forfeited under this section or any other sections of this code, it should give the appropriator or permittee 30 days' notice and provide him with an opportunity to be heard.

(d) After the hearing the commission, by entering an order of record, may cancel the appropriation in whole or in part. The commission shall immediately transmit a certified copy of the cancellation order by certified mail to the county clerk of the county in which the permit is recorded. The county clerk shall record the cancellation order.

(e) If a permit has been issued for the use of water, the water is not subject to a new appropriation until the permit has been cancelled in whole or in part as provided by this section.

(f) Except as provided by Subchapter (e) of this chapter, none of the provisions of this code may be construed as intended to impair, cause, or authorize or may impair, cause, or authorize the forfeiture of any rights acquired by any declaration of appropriation or by any permit if the appropriator has begun or begins the work and development contemplated by his declaration of appropriation or permit within the time provided by the law under which the declaration of appropriation was made or the permit was granted and has prosecuted or continues to prosecute it with all reasonable diligence toward completion. (R.S. Arts. 7519 (part), 7474.)

[Sections 5.145–5.170 reserved for expansion]

SUBCHAPTER E. CANCELLATION OF PERMITS FOR NONUSE**Section 5.171. Definitions**

As used in this subchapter:

(1) "other interested person" means any person, other than a record holder, who is interested in the permit or certified filing, or any person whose interest would be served by the cancellation of the permit or certified filing in whole or in part; and (R.S. Art. 7519a, Sec. 3, as amended.)

(2) "certified filing" means a declaration of appropriation or affidavit that was filed with the State Board of Water Engineers under the provisions of Section 14, Chapter 171, General Laws, Acts of the 33rd Legislature, 1913. (R.S. Art. 7519b, sen. 1, as amended.)

§ 5.172. General Principle

A permit or certified filing is subject to cancellation in whole or in part for 10 years' nonuse as provided by this subchapter. (New.)

§ 5.173. Cancellation in Whole

If no part of the water authorized to be appropriated under a permit or certified filing has been put to beneficial use at any time during the 10-year period immediately preceding the cancellation proceedings authorized by this subchapter, then the appropriation is presumed to have been wilfully abandoned, and the permit or certified filing is subject to cancellation in whole as provided by this subchapter. (R.S. Art. 7519a, Sec. 1, sen. 1, as amended.)

§ 5.174. Commission to Initiate Proceedings

When the commission finds that its records do not show that any water has been beneficially used under a permit or certified filing during the past 10 years, it shall initiate proceedings, terminated by public hearing, to cancel the permit or certified filing. (R.S. Art. 7519a, Sec. 1, sen. 2, as amended.)

§ 5.175. Notice

(a) At least 30 days before the date of the hearing, the commission shall send notice of the hearing to the holder of the permit or certified filing as shown by the records of the commission. Notice shall be sent by certified mail, return receipt requested, to the last address shown by the records of the commission. The commission shall also send notice by regular mail to all other holders of permits and certified filings in the same watershed.

(b) The commission shall also have the notice of the hearing published once a week for two consecutive weeks, at least 30 days before the date of the hearing, in a newspaper published in each county in which diversion of water from the source of supply was authorized or proposed to be made, and in each county in which the water was authorized or proposed to be used, as shown by the records of the commission. If in any such county no newspaper is published, then the notice may be published in a newspaper having general circulation in the county. (R.S. Art. 7519a, Sec. 1, sen. 3 (part), as amended.)

§ 5.176. Hearing

The commission shall hold a hearing and shall give the holder of the permit or certified filing and other interested persons an opportunity to be heard and to present evidence that water has, or has not, been beneficially used for the purposes authorized by the permit or certified filing during the 10-year period. (R.S. Art. 7519a, Sec. 1, sen. 3 (part), as amended.)

§ 5.177. Commission Finding; Action

At the conclusion of the hearing, if the commission finds that no water has been beneficially used for authorized purposes during the 10-year period, the appropriation is deemed to have been wilfully abandoned, and the commission shall cancel the permit or certified filing. (R.S. Art. 7519a, Sec. 1, sen. 4, as amended.)

§ 5.178. Cancellation in Part

If some part of the water authorized to be appropriated under a permit or certified filing has not been put to beneficial use at any time during

the 10-year period immediately preceding the cancellation proceedings authorized by this subchapter, then the permit or certified filing is subject to partial cancellation, as provided by this subchapter, to the extent of the 10 years' nonuse. (R.S. Art. 7519a, Sec. 2, sen. 1 (part), as amended.)

§ 5.179. Commission May Initiate Proceedings

When the commission finds that its records do not show proof that some portion of the water has been used during the past 10 years, it may initiate proceedings, terminated by public hearing, to cancel the permit or certified filing in part. (R.S. Art. 7519a, Sec. 2, sen. 2, as amended.)

§ 5.180. Notice

The commission shall give notice of the hearing as provided by Section 5.175 of this code. (R.S. Art. 7519a, Sec. 2, sen. 4 (part), as amended.)

§ 5.181. Hearing

The commission shall hold a hearing and shall give the holder of the permit or certified filing and other interested persons an opportunity to be heard and to present evidence on any matter pertinent to the questions at issue. (R.S. Art. 7519a, Sec. 2, sen. 4 (part), as amended.)

§ 5.182. Commission Finding; Action

(a) At the conclusion of the hearing, the commission shall cancel the permit or certified filing to the extent that it finds that:

(1) any portion of the water appropriated under the permit or certified filing has not been put to an authorized beneficial use during the 10-year period;

(2) the holder has not used reasonable diligence in applying the unused portion of the water to an authorized beneficial use; and

(3) the holder has not been justified in the nonuse or does not then have a bona fide intention of putting the unused water to an authorized beneficial use within a reasonable time after the hearing. (R.S. Art. 7519a, Sec. 2, sen. 5, as amended.)

(b) In determining what constitutes a reasonable time as used in Subsection (a)(3) of this section, the commission shall give consideration to:

(1) the expenditures made or obligations incurred by the holder in connection with the permit or certified filing;

(2) the purpose to which the water is to be applied;

(3) the priority of the purpose; and

(4) the amount of time usually necessary to put water to a beneficial use for the same purpose when diligently developed. (R.S. Art. 7519a, Sec. 2, sen. 3, as amended.)

§ 5.183. Reservoir

If the holder of a permit or certified filing has facilities for the storage of water in a reservoir, the commission shall allow him to retain a water appropriation to the extent of the conservation storage capacity of the reservoir. (R.S. Art. 7519a, Sec. 2, sen. 6, as amended.)

§ 5.184. Municipal Permit

Regardless of other provisions of this subchapter, no portion of a certified filing held by a city, town, village, or municipal water district, authorizing the use of water for municipal purposes, shall be cancelled if water has been put to use under the certified filing for municipal purposes at any time during the 10-year period immediately preceding the institution of cancellation proceedings. (R.S. Art. 7519a, Sec. 2, sen. 7, as amended.)

§ 5.185. Effect of Commission Inaction

Failure of the commission to initiate cancellation proceedings under this subchapter does not validate or improve the status of any permit or certified filing in whole or in part. (R.S. Art. 7519a, Sec. 2, sen. 8, as amended.)

§ 5.186. Subsequent Proceedings on Same Permit

Once cancellation proceedings have been initiated against a particular permit or certified filing and a hearing has been held, the commission shall not initiate further cancellation proceedings against the same permit or certified filing within the five-year period immediately following the date of the hearing. (R.S. Art. 7519a, Sec. 2, sen. 9, as amended.)

[Sections 5.187–5.200 reserved for expansion]

SUBCHAPTER F. ARTESIAN WELLS

Section 5.201. Artesian Well Defined

An artesian well is an artificial water well in which the water, when properly cased, will rise by natural pressure above the first impervious stratum below the surface of the ground. (R.S. Art. 7600; P.C. Art. 845.)

§ 5.202. Right to Drill Artesian Well

A person is entitled to drill an artesian well on his own land for domestic purposes or for stock raising without complying with the general provisions of this code regulating the use of water. However, he shall have the well properly and securely cased; and when water is reached containing mineral or other substances injurious to vegetation or agriculture, he shall have the well securely capped, or its flow controlled so as not to injure another person's land, or shall fill the well so as to prevent the water from rising above the first impervious stratum below the surface of the ground. (R.S. Art. 7604.)

§ 5.203. Artesian Well: Drilling Record

(a) A person who drills an artesian well or has one drilled shall keep a complete and accurate record of the depth, thickness, and character of the different strata penetrated and, when the well is completed, shall transmit a copy of the record to the commission by registered mail.

(b) A person who violates any provision of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$10 nor more than \$100. (R.S. Art. 7605; P.C. Art. 848.)

§ 5.204. Report of New Artesian Well

Within one year after an artesian well is drilled, the owner or operator shall transmit to the commission a sworn report stating the result of the drilling operation, the use to which the water will be applied, and the contemplated extent of the use. (R.S. Art. 7614.)

§ 5.205. Wasting Water from Artesian Well

(a) Unless the water from an artesian well is used for a purpose and in a manner in which it may be lawfully used on the owner's land, it is waste to wilfully cause or knowingly permit the water to run off the owner's land or to percolate through the stratum above which the water is found. (R.S. Art. 7602.)

(b) It is not waste to use water from an artesian well, if suitable, for proper irrigation of trees on a street, road, or highway, or for ornamental ponds or fountains, or for the propagation of fish. (R.S. Art. 7603.)

(c) A person who commits waste as defined in this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$500 or by confinement in the county jail for not more than 90 days or by both. (P.C. Art. 847.)

§ 5.206. Improperly Cased Well: Nuisance

An artesian well that is not tightly cased, capped, and furnished with mechanical appliances that readily and effectively prevent water from flowing out of the well and running over the surface of the ground about the well, or wasting through the strata through which it passes, is a public nuisance and subject to abatement by the commission. (R.S. Art. 7601.)

§ 5.207. Annual Report

(a) Not later than March 1 of each year, a person who, during any part of the preceding calendar year, owned or operated an artesian well for any purpose other than domestic use, shall file a report to the commission on a form supplied by the commission.

(b) The report shall state:

- (1) the quantity of water which was obtained from the well;
- (2) the nature of the uses to which the water was applied;
- (3) the change in the level of the well's water table; and
- (4) other information required by the commission.

(c) If water from the well was used for irrigation, the report shall also state the acreage and yield of each crop irrigated. (R.S. Art. 7615.)

[Sections 5.208–5.300 reserved for expansion]

SUBCHAPTER G. WATER RIGHTS ADJUDICATION ACT**Section 5.301. Short Title**

This subchapter may be cited as the Water Rights Adjudication Act. (60th Legis., Ch. 45, Sec. 1.)

§ 5.302. Declaration of Policy

The conservation and best utilization of the water resources of this state are a public necessity, and it is in the interest of the people of the

state to require recordation with the commission of claims of water rights which are presently unrecorded, to limit the exercise of these claims to actual use, and to provide for the adjudication and administration of water rights to the end that the surface-water resources of the state may be put to their greatest beneficial use. Therefore, this subchapter is in furtherance of the public rights, duties, and functions mentioned in this section and in response to the mandate expressed in Article XVI, Section 59, of the Texas Constitution, and is in the exercise of the police powers of the state in the interest of the public welfare. (60th Legis., Ch. 45, Sec. 3.)

§ 5.303. Recordation and Limitation of Certain Water Rights Claims

- (a) This section applies to:
- (1) claims of riparian water rights;
 - (2) claims under Section 5.141 of this code to impound, divert, or use state water for other than domestic or livestock purposes, for which no permit has been issued;
 - (3) claims of water rights under the Irrigation Acts of 1889 and 1895 which were not filed with the State Board of Water Engineers in accordance with the Irrigation Act of 1913, as amended; and
 - (4) other claims of water rights except claims under permits or certified filings.
- (b) Any claim to which this section applies shall be recognized only if valid under existing law and only to the extent of the maximum actual application of water to beneficial use without waste during any calendar year from 1963 to 1967, inclusive. However, in any case where a claimant of a riparian right has prior to August 28, 1967, commenced or completed the construction of works designed to apply a greater quantity of water to beneficial use, the right shall be recognized to the extent of the maximum amount of water actually applied to beneficial use without waste during any calendar year from 1963 to 1970, inclusive.
- (c) On or before September 1, 1969, every person claiming any water right to which this section applies shall file with the commission a statement setting forth:
- (1) the name and address of the claimant;
 - (2) the location and the nature of the right claimed;
 - (3) the stream or watercourse and the river basin in which the right is claimed;
 - (4) the date of commencement of works;
 - (5) the dates and volumes of use of water; and
 - (6) other information the commission may require to show the nature and extent of the claim.
- (d) A person who files a statement as provided in this section shall certify under oath that the statements made in support of his claim are true and correct to the best of his knowledge and belief.
- (e) A claimant who desires recognition of a right based on use from 1968 to 1970, inclusive, as provided in Subsection (b) of this section, shall file an additional sworn statement on or before July 1, 1971.
- (f) The commission shall prescribe forms for the sworn statements required by this section, but use of the commission forms is not mandatory.
- (g) On or before January 1, 1968, and June 1, 1969, the commission shall cause notice of the requirements of this section to be published once each week for two consecutive weeks in newspapers having general

circulation in each county of the state and by first-class mail to each user of surface water who has filed a report of water use with the commission.

(h) On sworn petition, notice, and hearing as prescribed for applications for permits, and upon finding of extenuating circumstances and good cause shown for failure to timely file, the commission may authorize the filing of the sworn statement or statements required by this section until entry of a preliminary determination of claims of water rights, in accordance with Section 5.309 of this code, which includes the area described in the petition, or, if a preliminary determination has not been entered, until September 1, 1974.

(i) Since the filing of all claims to use public water is necessary for the conservation and best utilization of the water resources of the state, failure to file a sworn statement in substantial compliance with this section extinguishes and bars any claim of water rights to which this section applies.

(j) A sworn statement submitted under this section is binding on the person submitting it and his successors in interest, but is not binding on the commission or any other person in interest.

(k) Nothing in this section shall be construed to recognize any water right which did not exist before August 28, 1967.

(l) This section does not apply to use of water for domestic or livestock purposes. (60th Legis., Ch. 45, Sec. 4.)

§ 5.304. Adjudication of Water Rights

The water rights in any stream or segment of a stream may be adjudicated as provided in this subchapter:

- (1) on the commission's own motion;
- (2) on petition to the commission signed by 10 or more claimants of water rights from the source of supply; or
- (3) on petition of the Texas Water Development Board. (60th Legis., Ch. 45, Sec. 5(a), sen. 1.)

§ 5.305. Investigation

(a) Promptly after a petition is filed under Section 5.304 of this code, the commission shall investigate the facts and conditions necessary to determine whether the adjudication would be in the public interest. If the commission finds that an adjudication would be in the public interest, it shall enter an order to that effect, designating the stream or segment to be adjudicated and directing an investigation to be made of the area involved in order to gather relevant data and information essential to the proper understanding of the claims of water rights involved. The results of the investigation shall be reduced to writing and made a matter of record in the commission's office.

(b) In connection with the investigation, the commission shall make a map or plat showing with substantial accuracy the course of the stream or segment and the location of reservoirs, diversion works, and places of use, including lands which are being irrigated or have facilities for irrigation. (60th Legis., Ch. 45, Sec. 5(a), sen. 2, 3, 4, 5.)

§ 5.306. Notice of Adjudication

(a) The commission shall prepare a notice of adjudication which describes the stream or segment to be adjudicated and the date by which all

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claims of water rights in the stream or segment shall be filed with the commission. The date shall not be less than 90 days after the date the notice is issued.

(b) The notice shall be published once a week for two consecutive weeks in one or more newspapers having general circulation in the counties in which the stream or segment is located.

(c) The notice shall also be sent by certified mail to each claimant of water rights whose diversion is within the stream or segment to be adjudicated, to the extent that the claimants can reasonably be ascertained from the records of the commission. (60th Legis., Ch. 45, Sec. 5(b), sen. 1, 2, 3.)

§ 5.307. Filing of Sworn Claims

(a) Every person claiming a water right of any nature, except for domestic or livestock purposes, from the stream or segment under adjudication, shall file a sworn claim with the commission within the time prescribed in the notice of adjudication, including any extensions of the prescribed time, setting forth:

- (1) the name and post-office address of the claimant;
- (2) the location and nature of the right claimed, including a description of any permit or certified filing under which the claim is made;
- (3) the purpose of the use;
- (4) a description of works and irrigated land; and
- (5) all other information necessary to show the nature and extent of the claim.

(b) The commission shall prescribe forms for claims, but use of the commission forms is not mandatory. (60th Legis., Ch. 45, Sec. 5(b), sen. 4, 5.)

§ 5.308. Hearings on Claims; Notice

The commission shall set a time and a place for hearing all claims. Not less than 30 days before commencement of the hearings, the commission shall give notice of the hearings by certified mail to all persons who have filed claims in accordance with Section 5.307 of this code; or this notice may be included in the notice of adjudication provided in Section 5.306 of this code. The hearings shall be conducted as provided in Section 5.337 of this code. (60th Legis., Ch. 45, Sec. 5(c).)

§ 5.309. Preliminary Determination of Claims

(a) On completion of the hearings, the commission shall make a preliminary determination of the claims to water rights under adjudication.

(b) One copy of the preliminary determination shall be furnished without charge to each person who filed a claim in accordance with Section 5.307 of this code. Additional copies of the preliminary determination shall be made available for public inspection at convenient locations throughout the river basin, as designated by the commission. Copies shall also be made available to other interested persons at a reasonable price, based on the cost of reproduction. (60th Legis., Ch. 45, Sec. 5(d), sen. 1, 2, 3, 4.)

§ 5.310. Evidence Open to Inspection

All evidence presented to or considered by the commission shall be open to public inspection for a period of not less than 60 days, as fixed by the commission, after the notice prescribed in Section 5.312 of this code is issued. (60th Legis., Ch. 45, Sec. 5(d), sen. 5.)

§ 5.311. Date for Filing Contests

The commission shall set a date for filing contests on the preliminary determination, which date shall not be less than 30 days after the period for public inspection of the evidence has closed. (60th Legis., Ch. 45, Sec. 5(d), sen. 6.)

§ 5.312. Notice of Preliminary Determination; Copies

(a) Promptly after the preliminary determination is made as provided in Section 5.309 of this code, the commission shall publish notice of the determination once a week for two consecutive weeks in one or more newspapers having general circulation in the river basin in which the stream or segment that is the subject of the adjudication is located.

(b) The commission shall also send notice by certified mail to each claimant of water rights within the river basin in which the stream or segment is located, to the extent that the claimants can be reasonably ascertained from the records of the commission.

(c) Each notice shall state:

(1) the place and the period of time that the preliminary determination and evidence presented to or considered by the commission will be open for public inspection;

(2) the locations throughout the river basin where copies of the preliminary determination will be available for public inspection;

(3) the method of ordering copies of the preliminary determination, and the charge for copies;

(4) the date by which contests on the preliminary determination must be filed. (60th Legis., Ch. 45, Sec. 5(d), sen. 7, 8, 9.)

§ 5.313. Filing Contests

(a) Any water right claimant affected by the preliminary determination, including any claimant to water rights within the river basin but outside the stream or segment under adjudication, who disputes the preliminary determination, may, within the time for filing contests prescribed by the commission in the notice, including any extension of the time, file a written contest with the commission, stating with reasonable certainty the grounds of his contest.

(b) The statement filed to contest a preliminary determination must be verified by an affidavit of the contestant, his agent, or his attorney.

(c) If the contest is directed against the preliminary determination of the water rights of other claimants, a copy shall be served on each of these claimants or his attorney by certified mail, and proof of service shall be filed with the commission. (60th Legis., Ch. 45, Sec. 5(e), sen. 1, 2.)

§ 5.314. Hearing on Contest; Notice

After the time for filing contests has expired, the commission shall prepare a notice setting forth the part of the preliminary determination

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to which each contest is directed and the time and place of a hearing on the contest. The notice shall be sent to each claimant of water rights within the river basin in which the stream or segment is located, to the extent that the claimants can be reasonably ascertained from the records of the commission. The hearing shall be conducted as provided in Section 5.337 of this code. (60th Legis., Ch. 45, Sec. 5(e), sen. 3, 4, 5.)

§ 5.315. Final Determination

On completion of the hearings on all contests, the commission shall make a final determination of the claims to water rights under adjudication. The commission shall send a copy of the final determination, and any modification of the final determination, to each claimant whose rights are adjudicated and to each contesting party. (60th Legis., Ch. 45, Sec. 5(f), sen. 1, 2.)

§ 5.316. Application for Rehearing

Within 30 days from the date of the final determination, any affected party may apply to the commission for a rehearing. Applications for rehearing which in the opinion of the commission are without merit may be denied without notice to other parties, but no application for rehearing shall be granted without notice to each claimant whose rights are adjudicated and to each contesting party. (60th Legis., Ch. 45, Sec. 5(f), sen. 3, 4.)

§ 5.317. Filing Final Determination with District Court

(a) As soon as practicable after the disposition of all applications for rehearing, the commission shall file a certified copy of the final determination, together with all evidence presented to or considered by the commission, in a district court of any county in which the stream or segment under adjudication is located. However, if the stream or segment under adjudication includes all or parts of three or more counties and if 10 or more affected persons who appeared in the proceedings petition the commission to do so, the commission shall file the action in a convenient district court of a judicial district which is not within the river basin of the stream or segment under adjudication.

(b) The commission shall obtain an order from the court fixing a time not less than 30 days from the date of the order for the filing of exceptions to the final determination and also fixing a time not less than 60 days from the date of the order for the commencement of hearings on exceptions.

(c) The commission shall immediately give written notice of the court order by certified mail to all parties who appeared in the proceedings before the commission. The commission shall file proof of the service with the court. (60th Legis., Ch. 45, Sec. 5(g).)

§ 5.318. Exceptions to Final Determination

(a) Any affected person who appeared in the proceeding before the commission may file exceptions to the final determination. An exception must state with a reasonable degree of certainty the grounds for the exception and must specify the particular paragraphs and pages of the determination to which the exception is taken.

(b) Three copies of the exceptions shall be filed in court, and a copy shall be served on the commission. The commission shall make copies of

all exceptions available at a reasonable price, based on the cost of reproduction. (60th Legis., Ch. 45, Sec. 5(h).)

§ 5.319. Hearings on Exceptions

(a) The court shall hear any exceptions that have been filed. The commission and all affected persons who appeared in the proceedings before the commission are entitled to appear and be heard on the exceptions. The court may permit other parties in interest to appear and be heard for good cause shown.

(b) The court may conduct nonjury hearings and proceedings at any convenient location within the state. Actual expenses incurred by the court outside its judicial district shall be taxed as costs. (60th Legis., Ch. 45, Sec. 5(i).)

§ 5.320. Scope of Judicial Review

(a) In passing on exceptions, the court shall determine all issues of law and fact independently of the commission's determination. The substantial evidence rule shall not be used. The court shall not consider any exception which was not brought to the commission's attention by application for rehearing. The court shall not consider any issue of fact raised by an exception unless the record of evidence before the commission reveals that the question was genuinely in issue before the commission.

(b) A party in interest may demand a jury trial of any such issue of fact, but the court may in its discretion have a separate trial with a separate jury of any such issue.

(c) The legislature declares that the provisions of this section are not severable from the remainder of this subchapter, and that this subchapter would not have been passed without the inclusion of this section. If this section is for any reason held invalid, unconstitutional, or inoperative in any way, the holding applies to the entire subchapter so that the entire subchapter is null and void. (60th Legis., Ch. 45, Sec. 5(j).)

§ 5.321. Evidence

Any exception heard by the court without a jury may be resolved on the record of evidence before the commission, or the court may take additional evidence or direct that additional evidence be heard by the commission. (60th Legis., Ch. 45, Sec. 5(k), sen. 1.)

§ 5.322. Final Decree

(a) After the final hearing, the court shall enter a decree affirming or modifying the order of the commission.

(b) The court may assess the costs as it deems just.

(c) An appeal may be taken from the decree of the court in the same manner and with the same effect as in other civil cases.

(d) The final decree in every water right adjudication is final and conclusive as to all existing and prior rights and claims to the water rights in the adjudicated stream or segment of a stream. The decree is binding on all claimants to water rights outside the adjudicated stream or segment of a stream.

(e) Except for domestic and livestock purposes or rights subsequently acquired by permit, a water right is not recognized in the adjudicated

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stream or segment of a stream unless the right is included in the final decree of the court. (60th Legis., Ch. 45, Sec. 5(k), sen. 2, 3, 4, 5.)

§ 5.323. Certificate of Adjudication

(a) When a final determination of the rights to the waters of a stream has been made in accordance with the procedure provided in this subchapter and the time for a rehearing has expired, the commission shall issue to each person adjudicated a water right a certificate of adjudication, signed by the chairman and bearing the seal of the commission.

(b) In the certificate the commission shall include:

- (1) a reference to the final decree;
- (2) the name and post-office address of the holder of the adjudicated right;
- (3) the priority, extent, and purpose of the adjudicated right; and if the right is for irrigation, a description of the irrigated land; and
- (4) all other information in the decree relating to the adjudicated right. (60th Legis., Ch. 45, Sec. 5(l).)

§ 5.324. Recordation of Certificate

(a) The commission shall transmit the certificate of adjudication or a true copy to the county clerk of each county in which the appropriation is made.

(b) On receipt of the recording fee from the holder of the certificate, the county clerk shall file and record the certificate in a well-bound book provided and kept for that purpose only. The clerk shall index the certificate alphabetically under the name of the holder of the certificate of adjudication and under the name of the stream or source of water supply.

(c) When a certificate of adjudication is filed and recorded as provided in this section, the county clerk shall deliver the certificate, on demand, to the holder. (60th Legis., Ch. 45, Sec. 5(m).)

§ 5.325. Water Divisions

The commission shall divide the state into water divisions for the purpose of administering adjudicated water rights. Water divisions may be created from time to time as the necessity arises. The divisions shall be constituted to secure the best protection to the holders of water rights and the most economical supervision on the part of the state. (60th Legis., Ch. 45, Sec. 8(a).)

§ 5.326. Appointment of Watermaster

(a) The commission may appoint one watermaster for each water division.

(b) A watermaster holds office until a successor is appointed. The commission may remove a watermaster at any time.

(c) The commission may employ assistant watermasters and other employees necessary to aid a watermaster in the discharge of his duties.

(d) In a water division in which the office of watermaster is vacant, the commission has the powers of a watermaster.

(e) The commission shall supervise and generally direct the watermaster in the performance of his duties. A watermaster is responsible to the commission for the proper performance of his duties.

(f) A person dissatisfied with any action of a watermaster may apply to the commission for relief. (60th Legis., Ch. 45, Sec. 8(b).)

§ 5.327. Duties of Watermaster

(a) A watermaster shall divide the water of the streams or other sources of supply of his division in accordance with the adjudicated water rights.

(b) A watermaster shall regulate or cause to be regulated the controlling works of reservoirs and diversion works in time of water shortage, as is necessary because of the rights existing in the streams of his division, or as is necessary to prevent the waste of water or its diversion, taking, storage, or use in excess of the quantities to which the holders of water rights are lawfully entitled.

(c) A watermaster may regulate the distribution of water from any system of works that serves users whose rights have been separately determined. (60th Legis., Ch. 45, Sec. 8(c), sen. 1, 2.)

§ 5.328. Watermaster's Notice Posted

If, in the performance of his duties, a watermaster regulates diversion works or the controlling works of reservoirs, he shall attach to the works a written notice, properly dated and signed, stating that the works have been properly regulated and are wholly under his control. The notice is legal notice to all parties interested in the diversion and distribution of the water served by the diversion works or reservoir. (60th Legis., Ch. 45, Sec. 8(c), sen. 3.)

§ 5.329. Compensation and Expenses of Watermaster

(a) The commission shall pay the compensation and necessary expenses of a watermaster, assistant watermasters, and other necessary employees, but the holders of water rights that have been determined or adjudicated and are to be administered by the watermaster shall reimburse the commission for the compensation and expenses.

(b) After the adjudication decree becomes final, the commission shall notify each holder of water rights under the decree of the amount of compensation and expenses that will be required annually for the administration of the water rights so determined.

(c) The commission shall hold a public hearing to determine the apportionment of the costs of administration of adjudicated water rights among the holders of the rights. After a public hearing the commission shall issue an order assessing the annual cost against the holders of water rights to whom the water will be distributed under the final decree. The commission shall equitably apportion the costs. The commission may provide for payments in installments and shall specify the dates by which payments shall be made to the commission.

(d) The commission shall transmit all collections under this section to the state treasurer.

(e) No water shall be diverted, taken, or stored by, or delivered to, any person while he is delinquent in the payment of his assessed costs.

(f) An order of the commission assessing costs remains in effect until the commission issues a further order. The commission may modify, revoke, or supersede an order assessing costs with a subsequent order. The commission may issue supplementary orders from time to time to apply to new diversions. (60th Legis., Ch. 45, Sec. 8(d).)

§ 5.330. Outlet for Free Passage of Water

The owner of any works for the diversion or storage of water shall maintain to the satisfaction of the commission a substantial headgate at the point of diversion, or a gate on each discharge pipe of a pumping plant, constructed so that it can be locked at the proper place by the watermaster, or a suitable outlet in a dam to allow the free passage of water that the owner of the dam is not entitled to divert or impound, the suitability of the outlet to be determined by the commission. (60th Legis., Ch. 45, Sec. 8(e), sen. 1.)

§ 5.331. Measuring Devices

The commission may require the owner of any works for the diversion, taking, storage, or distribution of water to construct and maintain suitable measuring devices at points that will enable the watermaster to determine the quantities of water to be diverted, taken, stored, released, or distributed, in order to satisfy the rights of the respective users. (60th Legis., Ch. 45, Sec. 8(e), sen. 2.)

§ 5.332. Installation of Flumes

The commission may order flumes to be installed along the line of any ditch if necessary for the protection of water rights or other property. (60th Legis., Ch. 45, Sec. 8(e), sen. 3.)

§ 5.333. Failure to Comply with Commission Directions

If the owner of waterworks using state water refuses or neglects to comply with the directions of the commission given pursuant to Section 5.330, 5.331, or 5.332 of this code, the commission, after 10 days' notice or after a period of additional time that is reasonable under the circumstances, may order the watermaster to make adjustments of the control works to prevent the owner of the works from diverting, taking, storing, or distributing any water until he has fully complied with the order of the commission. (60th Legis., Ch. 45, Sec. 8(e), sen. 4.)

§ 5.334. Suit Against Commission for Injury

Any person who is injured by an act of the commission under this subchapter may bring suit against the commission to review the action or to obtain an injunction. If the water right involved has been adjudicated as provided in this subchapter, the court shall issue an injunction only if it is shown that the commission has failed to carry into effect the decree adjudicating the water right. (60th Legis., Ch. 45, Sec. 8(f).)

§ 5.335. Administration of Water Rights not Adjudicated

(a) If any area in which water rights of record in the office of the commission have not been adjudicated, the claimants of the rights and the commission may enter into a written agreement for their administration.

(b) An agreement made under authority of this section shall provide:

(1) the basis and manner of distribution of the waters to which the agreement relates;

(2) the services of a special watermaster, and assistants if necessary, to carry out the agreement; and

(3) the allocation, collection, and payment of the annual costs of administration.

(c) An agreement to administer unadjudicated water rights shall be recorded in the offices of the commission and of the county clerk of each county in which any of the works or lands affected by the agreement are located.

(d) The administration of water rights by agreement is governed by the provisions of this subchapter except as regards allocation and payment of the expenses of the administration.

(e) No agreement authorized by this section impairs any vested right to the use of water or creates any additional rights to the use of water. (60th Legis., Ch. 45, Sec. 8(g).)

§ 5.336. Administration of Permits Issued After Adjudication

Permits, other than temporary permits, that are issued by the commission to appropriate water from an adjudicated stream or segment are subject to administration in the same manner as is provided in this subchapter for adjudicated water rights. (60th Legis., Ch. 45, Sec. 6.)

§ 5.337. Hearings: Notice and Procedure

(a) The commission shall give notice of a hearing or other proceeding it orders under this subchapter in the manner prescribed in the rules and regulations of the commission, unless this subchapter specifically provides otherwise.

(b) In any proceeding in any part of the state, the commission may

- (1) take evidence, including the testimony of witnesses;
- (2) administer oaths;
- (3) issue subpoenas and compel the attendance of witnesses in the same manner as subpoenas are issued out of the courts of the state;
- (4) compel witnesses to testify and give evidence; and
- (5) order the taking of depositions and issue commissions for the taking of depositions in the same manner as depositions are obtained in civil actions.

(c) Evidence may be taken by a duly appointed reporter before the commission or before an authorized representative who has the power to administer oaths.

(d) A witness at a hearing before the commission is entitled to receive the same fees and mileage as a witness in a civil action. The party calling a witness shall pay the fees and mileage. Fees and mileage of a witness called by the commission shall be paid out of funds made available to the commission by the legislature.

(e) If a person neglects or refuses to comply with an order or subpoena issued by the commission, or refuses to testify on any matter about which he may be lawfully interrogated, the commission may apply to a district court of the county in which the proceeding is held to punish him in the manner provided by law for such disobedience in civil actions.

(f) The commission may adjourn its proceedings from time to time and from place to place.

(g) When a proceeding before the commission is concluded, the commission shall render a decision as to the matters concerning which the proceeding was held. (60th Legis., Ch. 45, Sec. 9.)

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§ 5.338. Cancellation of Water Rights

Nothing in this subchapter recognizes any abandoned or cancelled water right or impairs in any way the power of the commission under general law to forfeit, cancel, or find abandoned any water right, including adjudicated water rights. (60th Legis., Ch. 45, Sec. 10.)

§ 5.339. Underground Water Not Affected

This subchapter does not apply to underground water as defined in Section 3c, Chapter 25, Acts of the 39th Legislature, 1925, as amended (Article 7880—3c, Vernon's Texas Civil Statutes). (60th Legis., Ch. 45, Sec. 11.)

§ 5.340. Abatement of Certain Civil Suits

(a) Nothing in this subchapter prevents or precludes a person who claims the right to divert water from a stream from filing and prosecuting to a conclusion a suit against other claimants of the right to divert or use water from the same stream. However, if the commission has ordered a determination of water rights as provided in this subchapter, or if the commission orders such a determination within 90 days after notice of the filing of a suit, the suit shall be abated on the motion of the commission or any party in interest as to any issues involved in the water rights determination.

(b) If a suit is abated as provided in Subsection (a) of this section, the court may grant or continue any temporary relief necessary to preserve the status quo pending a final determination of the water rights involved. (60th Legis., Ch. 45, Sec. 7.)

§ 5.341. Saving Clause

This subchapter does not affect any action or proceeding instituted before August 28, 1967, or any right accrued before that date except those specifically provided for in this subchapter. (60th Legis., Ch. 45, Sec. 12.)

[Sections 5.342–5.400 reserved for expansion]

SUBCHAPTER H. COURT-APPOINTED WATERMASTER

Section 5.401. Scope of Subchapter

The provisions of this subchapter apply to a suit if:

- (1) the state is a party;
- (2) the purpose of the suit is to determine the right of the parties to divert or use water of a surface stream; and
- (3) rights are asserted to use water in, or divert water to, not more than four counties. (55th Legis., Ch. 458, Sec. 1, sen. 1 (part).)

§ 5.402. Appointment and Authority of Watermaster

(a) A court having jurisdiction over a suit described in Section 5.401 of this code may appoint a watermaster with power to allocate and distribute, under the supervision of the court, the water taken into judicial custody.

(b) The court may not appoint a watermaster with authority to act both upstream and downstream from an existing reservoir on any surface stream of the state. However, once a watermaster is appointed, the construction of a new reservoir does not invalidate his appointment or restrict his authority over that portion of the stream contemplated by the original order of appointment. (55th Legis., Ch. 458, Sec. 1, sen. 1 (part), 2.)

(c) Under terms and conditions prescribed by the court, the watermaster may incur necessary expenses, appoint necessary deputies and assistants, and perform duties and assume responsibilities delegated to him by the court. (55th Legis., Ch. 458, Sec. 2, 13, as amended.)

§ 5.403. Compensation of Watermaster

The court shall fix the compensation of the watermaster and his staff. (55th Legis., Ch. 458, Sec. 3, sen. 1 (part); and Sec. 14, sen. 1 (part), as amended.)

§ 5.404. Expenses and Assessment of Costs of Watermaster

(a) The trial court shall assess the costs and expenses of the watermaster and his staff against all persons receiving an allocation of the water in judicial custody. The court shall assess the costs and expenses monthly or at other time intervals ordered by the court.

(b) The court shall assess the costs and expenses on the basis of:

- (1) acreage;
- (2) acre-feet of allocated water;
- (3) per capita; or
- (4) any other formula the court, after notice and hearing, determines to be the most equitable.

(c) During the pendency of an appeal, the trial court, in its discretion, may assess costs against some parties on one basis and against other parties on another basis. (55th Legis., Ch. 458, Sec. 3, sen. 1 (part), 2; and Sec. 14, sen. 1 (part), 2, as amended.)

(d) The costs and expenses are not to be taxed as ordinary court costs, but are to be considered costs necessary to protect the rights and privileges of the parties receiving allocations of water during the litigation and are to be paid by those parties. (55th Legis., Ch. 458, Sec. 4, sen. 1; and Sec. 15, sen. 1, as amended.)

§ 5.405. Failure to Pay Assessed Costs

If the costs and expenses assessed are not paid within the time prescribed by the court, the court after notice and hearing may withdraw or limit allocations of water to any party failing or refusing to pay his share until all costs and expenses assessed against him are paid in full. (55th Legis., Ch. 458, Sec. 4, sen. 2; and Sec. 15, sen. 2, as amended.)

§ 5.406. Judicial Custody of Water During Appeal

If a party appeals the judgment of the trial court, that court may retain custody of the water which it has previously taken into judicial custody and over which it has appointed a watermaster. Until final judgment is entered in the case, the trial court has exclusive jurisdiction to administer, allocate, and distribute the water retained in its custody, as provided in Section 5.407 of this code. (55th Legis., Ch. 458, Sec. 9, as amended.)

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§ 5.407. Allocation and Distribution of Water During Appeal

During the pendency of an appeal, the trial court shall limit the allocation and distribution of the water in its custody to the parties adjudicated to have a valid right to use the water. However, if any party prosecutes an appeal and files a supersedeas bond, the trial court shall make any necessary adjustments in the water allocations and allocate to that party the same amount of water that he received during the proceedings in the trial court. (55th Legis., Ch. 458, Sec. 10, as amended.)

§ 5.408. Retention of Watermaster During Appeal

During the pendency of an appeal, the trial court may retain the watermaster in office with the same authority he had during the trial proceedings. (55th Legis., Ch. 458, Sec. 12, as amended.)

§ 5.409. Violations of Court Orders

If a party violates any order of the trial court, either during trial proceedings or during an appeal, the trial court may limit or withdraw his allocation of water until he corrects the violation to the satisfaction of the court. (55th Legis., Ch. 458, Sec. 5, 11, as amended.)

CHAPTER 6. WATER RIGHTS COMMISSION

SUBCHAPTER A. GENERAL PROVISIONS

Section 6.001. Definitions

The definitions contained in Chapter 5, Subchapter A, of this code apply to this chapter. (New.)

[Sections 6.002–6.010 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Section 6.011. Texas Water Rights Commission

The Texas Water Rights Commission is an agency of the state. (R.S. Art. 7477, Sec. 3, sen. 1 (part), as amended.)

§ 6.012. Members of Commission; Appointment

The commission is composed of three members who are appointed by the governor with the advice and consent of the senate. The governor shall make the appointments in such a manner that each member is from a different section of the state. (R.S. Art. 7477, Sec. 3, sen. 2 (part), 5 (part), as amended.)

§ 6.013. Terms of Office

(a) The members of the commission hold office for staggered terms of six years; and each member shall serve until his successor is appointed and has qualified. (R.S. Art. 7477, Sec. 3, sen. 2 (part), as amended.)

(b) On February 1 of each odd-numbered year, the term of one commissioner expires. (R.S. Art. 7477, Sec. 3, sen. 3, as amended.)

§ 6.014. Qualifications

To be qualified for appointment as a member of the commission, a person must have some knowledge of water law. (R.S. Art. 7477, Sec. 3, sen. 2 (part), as amended.)

§ 6.015. Oath and Bond

A newly appointed member qualifies to take office by taking the official oath of office and executing an official bond, payable to the State of Texas, in the sum of \$10,000, in accordance with the State Employee Bonding Act (Article 6003b, Vernon's Texas Civil Statutes). (R.S. Art. 7477, Sec. 3, sen. 4 (part), as amended.)

§ 6.016. Officer of the State

Each member is an officer of the state as that term is used in the constitution. (R.S. Art. 7477, Sec. 3, sen. 4 (part), as amended.)

§ 6.017. Full-Time Service

Each member shall serve on a full-time basis. (R.S. Art. 7477, Sec. 3, sen. 5 (part), as amended.)

§ 6.018. Officers; Meetings

(a) The governor shall designate the chairman of the commission. He shall serve as chairman until the governor designates a different chairman.

(b) The chairman may designate another commissioner to act for him in his absence.

(c) The chairman shall preside at the meetings of the commission.

(d) The commission shall hold regular meetings at the times specified by a commission order and entered in its minutes. The commission may hold special meetings at the times and places within the state that the commission decides are appropriate for the performance of its duties. The chairman or acting chairman shall give the other members reasonable notice before holding a special meeting.

(e) A majority of the commission is a quorum.

(f) The chairman shall issue notice of public hearings held under the authority of the commission. (R.S. Art. 7477, Sec. 3, sen. 6, 7, 8, 9, 10, 11, as amended.)

§ 6.019. Office Space

The State Board of Control shall furnish the commission with an office in Austin, Texas, equipped with necessary furniture and supplies, to be paid for on order of the commission. (R.S. Art. 7489.)

§ 6.020. Executive Director

(a) The commission shall employ an executive director to serve at the will of the commission.

(b) The executive director is the chief administrative officer of the commission.

(c) The executive director is entitled to receive the same payment for necessary travel expenses that a member receives.

(d) The executive director is entitled to receive an annual salary as provided by the general appropriations act. (R.S. Art. 7477, Sec. 6, sen. 1, 2 (part), 3, as amended.)

§ 6.021. Legal Services

(a) The attorney general is the legal advisor of the commission. He shall represent the commission in litigation in which it is a party.

(b) The chairman of the commission, with the written consent of the attorney general, may employ other legal counsel regularly or temporarily. (R.S. Art. 7477, Sec. 10, as amended.)

§ 6.022. Employees

The executive director shall employ the full-time and part-time employees, including hydrologists and other specialists in the field of water rights administration, that the commission decides are necessary to assist it in carrying out its powers, duties, and functions. (R.S. Art. 7477, Sec. 6, sen. 2 (part), as amended.)

§ 6.023. Administrative Organization

The commission may organize and reorganize its administrative divisions and services to achieve administrative efficiency. (R.S. Art. 7477, Sec. 4 (part), as amended.)

§ 6.024. Reports to the Governor

(a) The commission shall make biennial written reports to the governor.

(b) The commission shall include in the biennial reports:

- (1) data on its activities;
- (2) suggestions for amending existing laws; and
- (3) suggestions for new laws that should be enacted. (R.S. Art. 7477, Sec. 5, as amended.)

§ 6.025. Fiscal Reports

The commission shall file with the comptroller of public accounts full, detailed, and verified monthly and annual reports of all its receipts and expenditures. (R.S. Art. 7533, Sec. 1 (part), as amended.)

§ 6.026. Seal

The commission shall have a seal and shall prescribe its form. (R.S. Art. 7531, Sec. 1, sen. 1 (part), as amended.)

[Sections 6.027–6.050 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Section 6.051. Scope of Subchapter

The powers and duties enumerated in this subchapter are the general powers and duties of the commission and those incidental to the conduct of its business. The commission has other specific powers and duties as prescribed in other sections of this code. (New.)

§ 6.052. Commission to be Knowledgeable

The commission shall be knowledgeable of the water courses of the state and of the needs of the state concerning the use, storage, and conservation of water. (R.S. Art. 7525.)

§ 6.053. Conservation of Water

The commission shall administer the law so as to promote the judicious use and the maximum conservation of water. (42nd Legis., Ch. 128, Sec. 4 (part).)

§ 6.054. Use of Board Surveys; Policy

The commission shall make use of surveys, studies, and investigations conducted by the Texas Water Development Board in order to ascertain the character of the principal requirements of the district regional division of the watershed areas of the state for beneficial uses of water, to the end that distribution of the right to take and use state water may be more equitably administered in the public interest, that privileges granted for recognized uses may be economically coordinated so as to achieve the maximum of public value from the state's water resources, and that the distinct regional necessities for water control and conservation and for control of harmful floods may be recognized. (42nd Legis., Ch. 128, Sec. 5.)

§ 6.055. Rule-Making

(a) The commission shall adopt reasonable rules relating to the conduct of its affairs, including rules describing the procedure to be followed in a commission hearing or in any other administrative action.

(b) The commission may make reasonable rules to provide for enforcement of the provisions of this code which are subject to administration by the commission.

(c) The commission shall have the rules printed and shall furnish copies of them to all interested persons who apply for them. The commission may charge a reasonable amount for copies of the rules.

(d) No new rule or amendment of an existing rule is effective until at least 30 days have elapsed since the date a copy of the new or amended rule was filed with the secretary of state. (R.S. Art. 7531, Sec. 1, sen. 1 (part), 2, 3, 4, as amended; R.S. Art. 7477, Sec. 4 (part), as amended.)

§ 6.056. Rate-Fixing Power

The commission shall fix reasonable rates for the furnishing of water for any purpose mentioned in Chapter 5 or 6 of this code. (R.S. Art. 7563.)

§ 6.057. Permit Applications

The commission shall receive, administer, and act on all applications for permits and permit amendments:

- (1) to appropriate public water for beneficial use or storage; or
- (2) to construct works for the impoundment, storage, diversion, or transportation of public water. (R.S. Art. 7477, Sec. 8(a), sen. 1, as amended.)

§ 6.058. Hearings: Recess, Etc.

The commission may recess any hearing or examination from time to time and from place to place. (R.S. Art. 7566, sen. 1.)

§ 6.059. Power to Administer Oaths

Each member of the commission and its secretary may administer oaths in any examination or hearing before the commission. (R.S. Art. 7566, sen. 2.)

§ 6.060. Witnesses

(a) In any proceeding held before it, the commission may issue subpoenas compelling the attendance of witnesses according to rules prescribed by the commission.

(b) Each witness who appears before the commission under its subpoena at a proceeding outside the county of his residence is entitled to receive for his appearance \$1.00 per day and three cents per mile traveled by the nearest practicable route in going to and returning from the place of his appearance. The comptroller of public accounts shall pay the amount on presentation of proper vouchers sworn to by the witness and approved by the chairman of the commission. No witness is entitled to the witness fees or mileage if he is directly interested in the proceeding. (R.S. Art. 7565.)

§ 6.061. Injunctions

(a) The commission may enforce its rules by injunction or other appropriate remedy in a court of competent jurisdiction.

(b) The commission may enforce the terms and conditions of any permit or certified filing by injunction or other appropriate remedy in a court of competent jurisdiction. (R.S. Art. 7531, Sec. 2, as amended.)

§ 6.062. Venue in Commission Suits

Except as provided in Section 5.317(a) of this code, a suit instituted by or for the commission may be brought in a court of competent jurisdiction in any county where all or part of the land involved in the controversy is located. (R.S. Art. 7609.)

§ 6.063. Power to Condemn Works

(a) The commission may condemn existing works if their existence or operation may, in the judgment of the commission, become a public menace or dangerous to life and property.

(b) In all cases of proposed condemnation, the commission shall notify the interested party of the contemplated action and shall specify a time for him to appear and be heard. (R.S. Art. 7529.)

§ 6.064. Power to Inspect

The commission or its authorized agent may inspect any impounding, diversion, or distribution works during construction to determine whether or not they are being constructed in a safe manner and whether or not they are being constructed according to the order of the commission. (R.S. Art. 7514.)

§ 6.065. Power to Enter Land

Any member or employee of the commission may enter any person's land, natural waterway, or artificial waterway for the purpose of making

an investigation that would, in the judgment of the commission, assist the commission in the discharge of its duties. (R.S. Art. 7581.)

§ 6.066. Agency Cooperation

In performing its duties, the commission may cooperate with any person. (R.S. Art. 7477, Sec. 11, as amended.)

§ 6.067. Evaluation of Outstanding Permits

The commission shall actively and continually evaluate outstanding permits and certified filings and shall carry out measures to cancel wholly or partially the certified filings and permits that are subject to cancellation. (R.S. Art. 7477, Sec. 8(c), as amended.)

§ 6.068. Fees

(a) The commission shall charge and collect the fees prescribed by this section. The commission shall make a record of fees prescribed when due, and shall render an account to the person charged with the fees. Each fee is a separate charge and is in addition to other fees unless provided otherwise.

(b) The fee for filing an application or petition is \$25 plus the cost of required notice.

(c) The fee for recording an instrument in the office of the commission is \$1.00 per page.

(d) The fee for the use of water for irrigation is 50 cents per acre to be irrigated.

(e) The fee for the use of water for a steam or gas power plant, or for cooling, condensing, or steam purposes is \$1.00 for each indicated horsepower.

(f) The fee for impounding water, except under Section 5.140 of this code, or for the use of water for recreation or pleasure, is 50 cents per acre-foot of storage, based on the total holding capacity of the reservoir at normal operating level.

(g) The fee for other uses of water not specifically named in this section is \$1.00 per acre-foot.

(h) A fee charged under this section for one use of water under a permit from the commission may not exceed \$5,000. The fee for each additional use of water under a permit for which the maximum fee is paid may not exceed \$1,000.

(i) The fees prescribed by Subsections (d) through (g) of this section are one-time fees, payable when the application for an appropriation is made. However, if the total fee for a permit exceeds \$1,000, the applicant shall pay one-tenth of the fee when the application is filed, one-tenth within 30 days after notice is mailed to him that the permit is granted, and the balance before he begins to use water under the permit. If the applicant does not pay all of the amount owed before he begins to use water under the permit, his permit is annulled. (R.S. Art. 7532, Sec. 1, as amended; R.S. Art. 7535.)

§ 6.069. Fees: Exemptions

The Texas Water Development Board and the Texas Parks and Wildlife Commission are exempted from payment of any filing, recording, or use fees required by this code. (R.S. Art. 7532, Sec. 3, as amended.)

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§ 6.070. Disposition of Fees, Etc.

(a) The commission shall immediately deposit the fees and charges it collects in the state treasury. (R.S. Art. 7533, Sec. 1 (part), as amended.)

(b) The commission shall deposit all costs collected under Chapter 5, Subchapter F of this code in the state treasury to the credit of the water rights administration fund, from which the commission shall pay all expenses necessary to efficiently administer and perform the duties described in Sections 5.325–5.335 of this code. (R.S. Art. 7533, Sec. 2, as amended.)

§ 6.071. Disposition of Fees Pending Determination

The commission shall hold all fees, except filing fees, which are paid with an application until the commission finally determines whether the application should be granted. If the application is not granted, the commission shall return the fees to the applicant. (R.S. Art. 7532, Sec. 2, as amended.)

§ 6.072. Certified Copies

(a) On application and payment of the fees prescribed by commission rule, the commission shall furnish certified copies of:

- (1) any of its proceedings;
- (2) any other official act of record; or
- (3) any paper, map, or document filed in the office of the commission in connection with the appropriation of water or the determination or administration of water rights.

(b) The certified copy is admissible as evidence in any court or administrative proceeding if it is:

- (1) signed by the chairman, a person designated by the chairman, or the executive director; and
- (2) issued under the seal of the commission. (R.S. Art. 7477, Sec. 13, as amended.)

§ 6.073. Federal Projects

(a) In this section:

(1) “federal project” means an engineering undertaking or work to construct, enlarge, or extend a dam, lake, reservoir, or other water-storage or flood-control work, or a drainage, reclamation, or canalization undertaking, or any combination of these, financed in whole or in part with funds of the United States;

(2) “engineering report” means the plans, data, profiles, maps, estimates, and drawings prepared in connection with a federal project; and

(3) “federal agency” means the Corps of Engineers of the United States Army, the Bureau of Reclamation of the Department of Interior, the Soil Conservation Service of the Department of Agriculture, the United States Section of the International Boundary and Water Commission, or any other agency of the United States, the function of which includes the conservation, development, retardation by impounding, control, or study of the water resources of Texas or the United States. (54th Legis., Ch. 47, Sec. 1.)

(b) When the governor receives an engineering report submitted by a federal agency seeking the governor's approval of a federal project, he shall immediately forward the report to the commission for its study concerning the feasibility of the federal project. (54th Legis., Ch. 47, Sec. 2, sen. 1.)

(c) The commission shall hold a public hearing to receive the views of persons and groups who might be affected by the proposed federal project. The commission shall publish notice of the time, date, place, nature, and purpose of the public hearing, once each week for two consecutive weeks before the date stated in the notice, in a newspaper having general circulation in the section of the state where the federal project is to be located or the work done. (54th Legis., Ch. 47, Sec. 2, sen. 2, 3.)

(d) The commission shall conduct the hearing in the same manner that it conducts a hearing on an application for a permit to appropriate state water. After hearing all the evidence both for and against approval of the federal project, the commission shall enter its order approving or disapproving the feasibility of the federal project, and the order shall include the commission's reasons for approval or disapproval. (54th Legis., Ch. 47, Sec. 3.)

(e) In determining feasibility the commission shall consider, among other relevant factors:

- (1) the effect of the federal project on water users on the stream;
- (2) the public interest to be served;
- (3) the development of damsites to the optimum potential for water conservation;
- (4) the integration of the federal project with other water conservation activities;
- (5) the protection of the state's interests in its water resources; and
- (6) the engineering practicality of the federal project, including cost of construction, operation, and maintenance. (54th Legis., Ch. 47, Sec. 4.)

(f) The commission shall forward to the governor a certified copy of its order. The commission's finding that the federal project is either feasible or not feasible is final and the governor shall notify the federal agency that the federal project has been either approved or disapproved. (54th Legis., Ch. 47, Sec. 5.)

(g) The provisions of this section do not apply to the state soil conservation board as long as that board is designated by the governor as the authorized state agency having supervisory responsibility to approve or disapprove of projects designed to effectuate watershed-protection and flood-prevention programs initiated in cooperation with the United States Department of Agriculture. (54th Legis., Ch. 47, Sec. 6.)

§ 6.074. Continuing Right of Supervision of Districts Created Under Article XVI, Section 59, of the Texas Constitution

(a) The powers and duties of all districts and authorities created under Article XVI, Section 59, of the Texas Constitution, are subject to the continuing right of supervision of the State of Texas, by and through the Texas Water Rights Commission or its successor. (61st Legis., Ch. 564, Sec. 1 (part).)

(b) The provisions of this section shall not apply to any river authority encompassing 10 or more counties which was not subject to the continuing right of supervision of the State of Texas, by and through the

Texas Water Rights Commission or its predecessors, on June 10, 1969.
(61st Legis., Ch. 564, Sec. 1 (part).)

§ 6.075. Duty to Investigate Fresh Water Supply District Projects

(a) In this section:

(1) "district" means fresh water supply district; and

(2) "designated agent" means any licensed engineer selected by the commission to perform the functions specified in this section.
(New; 61st Legis., Ch. 563, Sec. 1, sen. 12.)

(b) The commission shall investigate and report on the organization and feasibility of all districts created under Chapter 53 of this code which issue bonds under the provisions of that chapter. (61st Legis., Ch. 563, Sec. 1, sen. 1.)

(c) A district that wants to issue bonds for any purpose shall submit to the commission a written application for investigation, together with a copy of the engineer's report and a copy of the data, profiles, maps, plans, and specifications made in connection with the engineer's report. (61st Legis., Ch. 563, Sec. 1, sen. 2.)

(d) The commission or its designated agent shall examine the application and other information and shall visit the project and carefully inspect it. The commission or its designated agent may ask for and shall be supplied with additional data and information requisite to a reasonable and careful investigation of the project and proposed improvements. (61st Legis., Ch. 563, Sec. 1, sen. 3.)

(e) The commission or its designated agent shall file in the commission office written suggestions for changes and improvements and shall furnish a copy of the suggestions to the board of the district. If the commission finally approves or refuses to approve the project, or the issuance of bonds for the improvements, it shall make a full written report, file it in its office, and furnish a copy of the report to the board of the district. (61st Legis., Ch. 563, Sec. 1, sen. 4, 5.)

(f) During the course of construction of the project and improvements, no substantial alterations shall be made in the plans and specifications without the approval of the commission. The commission or its designated agent has full authority to inspect the improvements at any time during construction to determine if the project is being constructed in accordance with the plans and specifications approved by the commission. (61st Legis., Ch. 563, Sec. 1, sen. 6, 7.)

(g) If the commission finds that the project is not being constructed in accordance with the approved plans and specifications, it immediately shall notify in writing by certified mail each member of the board of the district and its manager. If, within 10 days after the notice is mailed, the board of the district does not take steps to insure that the project is being constructed in accordance with the approved plans and specifications, the commission shall give written notice of that fact to the attorney general. (61st Legis., Ch. 563, Sec. 1, sen. 8, 9.)

(h) After the attorney general receives the notice, he may bring an action for injunctive relief, or he may bring quo warranto proceedings against the directors. Venue for either of these actions is exclusively in the district court of Travis County. (61st Legis., Ch. 563, Sec. 1, sen. 10, 11.)

[Sections 6.076–6.100 reserved for expansion]

SUBCHAPTER D. JUDICIAL REVIEW**Section 6.101. Judicial Review of Commission Acts**

(a) A person affected by a ruling, order, decision, or other act of the commission may file a petition to review, set aside, modify, or suspend the act of the commission.

(b) A person affected by a ruling, order, or decision of the commission must file his petition within 30 days after the effective date of the ruling, order, or decision. A person affected by an act other than a ruling, order, or decision must file his petition within 30 days after the date the commission performed the act. (R.S. Art. 7477, Sec. 12(a), sen. 1, as amended.)

§ 6.102. Remedy for Commission Inaction

A person affected by the failure of the commission to act in a reasonable time on an application to appropriate water, or to perform any other duty with reasonable promptness, may file a petition to compel the commission to show cause why it should not be directed by the court to take immediate action. (R.S. Art. 7477, Sec. 12(a), sen. 2, as amended.)

§ 6.103. Diligent Prosecution of Suit

The plaintiff shall prosecute with reasonable diligence any suit brought under Section 6.101 or 6.102 of this code. If the plaintiff does not secure proper service of process, or does not prosecute his suit within one year after it is filed, the court shall presume that the suit has been abandoned. The court shall dismiss the suit on a motion for dismissal made by the attorney general unless the plaintiff after receiving due notice can show good and sufficient cause for the delay. (R.S. Art. 7477, Sec. 12(a), sen. 4, 5, 6, as amended.)

§ 6.104. Venue

A suit instituted under Section 6.101 or 6.102 of this code must be brought in the district court of Travis County. (R.S. Art. 7477, Sec. 12(a), sen. 3, as amended.)

§ 6.105. Appeal of District Court Judgment

A judgment or order of a district court in a suit brought for or against the commission is appealable as are other civil cases in which the district court has original jurisdiction. (R.S. Art. 7477, Sec. 12(b), as amended.)

SUBTITLE B. WATER DEVELOPMENT**CHAPTER 11. WATER DEVELOPMENT BOARD****SUBCHAPTER A. GENERAL PROVISIONS****Section 11.001. Definitions**

In this chapter, unless the context requires a different definition:

- (1) "Board" means the Texas Water Development Board.
- (2) "Chairman" means the chairman of the Texas Water Development Board.

(3) "Executive director" means the executive director of the Texas Water Development Board.

(4) "Political subdivision" means a county, city, or other body politic or corporate of the state, including any district or authority created under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution, and including any interstate compact commission to which the state is a party.

(5) "Project" means any engineering undertaking or work to conserve and develop surface or subsurface water resources of the state including the control, storage, and preservation of its storm water and floodwater and the water of its rivers and streams for all useful and lawful purposes by the acquisition, improvement, extension, or construction of dams, reservoirs, and other water storage projects including underground storage projects, filtration and water treatment plants including any system necessary to transport water from storage to points of distribution, or from storage to filtration and treatment plants, including facilities for transporting water therefrom to wholesale purchasers, by the acquisition, by purchase of rights in underground water, by the drilling of wells, or for any one or more of these purposes or methods.

(6) "Weighted average effective interest rate" means the rate of interest computed by dividing the total value of all coupons attached to the bonds issued under this chapter, after deducting all premiums and adding all discounts involved, by the total number of years from the date of issuance to the date of maturity of each bond previously issued.

(7) "Bonds" means the Texas Water Development Bonds authorized by the Texas Constitution.

(8) "Commission" means the Texas Water Rights Commission. (55th Legis., Ch. 425, Sec. 2, as amended.)

[Sections 11.002–11.010 reserved for expansion]

SUBCHAPTER B. ADMINISTRATION PROVISIONS

Section 11.011. Texas Water Development Board

The Texas Water Development Board is an agency of the state. (55th Legis., Ch. 425, Sec. 3, subsec. (a), sen. 1, as amended.)

§ 11.012. Members of Board; Appointment

(a) The board is composed of six members, who are appointed by the governor with the advice and consent of the senate.

(b) The governor shall make the appointments in such a manner that:

(1) one member is from the field of engineering, one is from the field of public or private finance, one is a lawyer, one is a farmer or rancher, and two are from the public at large;

(2) each member is from a different section of the state; and

(3) each member before appointment has had at least 10 years of successful business or professional experience. (55th Legis., Ch. 425, Sec. 3, subsec. (a), sen. 2, 3, as amended.)

§ 11.013. Officers of State; Oath

Each member of the board is an officer of the state as that term is used in the constitution, and each member shall qualify by taking the official oath of office. (55th Legis., Ch. 425, Sec. 3, subsec. (a), sen. 7, as amended.)

§ 11.014. Terms of Office

The members of the board hold office for staggered terms of six years, with the terms of two members expiring every two years. Each member holds office until his successor is appointed and has qualified. (55th Legis., Ch. 425, Sec. 3, subsec. (a), sen. 4, 5, 6, as amended.)

§ 11.015. Board Officers

(a) The governor shall designate one member as chairman of the board to serve at the will of the governor.

(b) The members shall elect a vice chairman every two years. The board shall fill a vacancy in the office of vice chairman for the remainder of the unexpired term. (55th Legis., Ch. 425, Sec. 3, subsec. (a), sen. 9, 10, 11, as amended.)

§ 11.016. Board Meetings

(a) The board shall meet once each month on a day and at a place selected by it, subject to recesses at the discretion of the board. The chairman may call a special meeting at any time by giving reasonable notice to the other members. (55th Legis., Ch. 425, Sec. 21, sen. 1, 2, as amended.)

(b) The chairman, or in his absence the vice chairman, shall preside at all meetings of the board.

(c) A majority of the members constitutes a quorum to transact business. (55th Legis., Ch. 425, Sec. 3, subsec. (a), sen. 12, 13, as amended.)

§ 11.017. Compensation; Expenses

A member is entitled to receive not more than \$25 for each day he serves in the performance of his duties, together with travel and other necessary expenses. (55th Legis., Ch. 425, Sec. 3, subsec. (a), sen. 8, as amended.)

§ 11.018. Administrative Organization

The board may organize and reorganize its administrative sections and divisions to achieve efficiency. (55th Legis., Ch. 425, Sec. 3, subsec. (c), sen. 2, as amended.)

§ 11.019. Executive Director

The board shall employ an executive director to serve at the will of the board. (55th Legis., Ch. 425, Sec. 21, sen. 4, as amended.)

§ 11.020. Development Fund Manager

The executive director, with the approval of the board, shall appoint the development fund manager, who shall perform all duties required by this chapter and by the board. (55th Legis., Ch. 425, Sec. 21, sen. 6, as amended.)

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§ 11.021. Travel Expenses

The executive director, chief engineer, development fund manager, and the general counsel are entitled to receive necessary travel expenses in the same manner as members of the board. (55th Legis., Ch. 425, Sec. 21, sen. 7; subdiv. (k); as amended.)

§ 11.022. Compensation of Employees

The executive director and the other employees of the board are entitled to compensation as provided by the general appropriations act. (55th Legis., Ch. 425, Sec. 21, sen. 8, as amended, and Sec. 22, sen. 5.)

§ 11.023. Seal

The board shall have a seal bearing the words "Texas Water Development Board" encircling the oak and olive branches common to other official seals. (55th Legis., Ch. 425, Sec. 21, sen. 3, as amended.)

§ 11.024. Attorney General's Approval of Contracts, Etc.

The board shall obtain the approval of the attorney general as to the legality of:

- (1) the resolution of the board authorizing state ownership in a project; and
- (2) all contracts authorized in Subchapters H and I of this chapter to which the board is a party. (55th Legis., Ch. 425, Sec. 12, subsec. (p), as amended.)

§ 11.025. Rules and Regulations

(a) The board shall make rules prescribing the form and content of applications for financial assistance.

(b) The board and the commission, separately or jointly, may make reasonable and necessary rules and regulations to implement and effectuate the provisions of this chapter.

(c) These rules and regulations, and any amendments to them, shall be submitted to the attorney general for his approval and shall be filed with the secretary of state. (55th Legis., Ch. 425, Sec. 12, subsec. (q); Sec. 19, as amended.)

§ 11.026. Reports to Governor

The board shall make biennial reports in writing to the governor. Each report shall include data on the activities of the board and shall recommend any legislation the board considers necessary or desirable. (55th Legis., Ch. 425, Sec. 23, as amended.)

[Sections 11.027–11.060 reserved for expansion]

**SUBCHAPTER C. DUTIES OF EXECUTIVE DIRECTOR
AND STAFF**

Section 11.061. Responsibility of Executive Director

The executive director, under the policies of the board, shall manage the administrative affairs of the board, serve as chief administrative offi-

cer for the board, and employ necessary personnel. In addition to other duties and assignments made by the board, the executive director is responsible to the board for the performance by the staff of the duties described in this subchapter. (55th Legis., Ch. 425, Sec. 21, sen. 5, 9 (part).)

§ 11.062. Studies, Investigations, Surveys

(a) The staff shall make studies, investigations, and surveys of the occurrence, quantity, quality, and availability of the surface water and groundwater of this state. For these purposes the staff shall collect, receive, analyze, and process basic data concerning the water resources of the state.

(b) The staff shall:

- (1) determine suitable locations for future water facilities including reservoir sites;
- (2) locate land best suited for irrigation;
- (3) make estimates of the cost of proposed irrigation works and the improvement of reservoir sites; and
- (4) examine and survey reservoir sites.

(c) The staff shall keep full and proper records of its work, observations, data, and calculations, all of which are the property of the state. (55th Legis., Ch. 425, Sec. 21, subdiv. (a), (c), as amended; 42nd Legis., Ch. 128, Sec. 5; R.S. Arts. 7524, 7527, 7528.)

(d) In performing its duties under this section, the staff shall assist the commission in carrying out the purposes and policies stated in Section 6.054 of this code. (New.)

§ 11.063. Engineering, Hydrologic, and Geologic Functions

The staff shall advise and assist the board with regard to engineering, hydrologic, and geologic matters concerning the water resources of the state. The staff shall evaluate, prepare, and publish engineering, hydrologic, and geologic data, information, and reports relating to the water resources of the state. (55th Legis., Ch. 425, Sec. 21, subdiv. (f), (h) (part), and (i), as amended.)

§ 11.064. Silt Load of Streams, Etc.

The staff shall determine the silt load of streams, make investigations and studies of the duty of water, and make surveys to determine the water needs of the distinct regional divisions of the watershed areas of the state. (55th Legis., Ch. 425, Sec. 21, subdiv. (g), as amended.)

§ 11.065. Studies of Underground Water Supply

The staff may make studies and investigations of the physical characteristics of water-bearing formations and of the sources, occurrence, quantity, and quality of the underground water supply of the state; and the staff may study and investigate feasible methods to conserve, preserve, improve, and supplement this supply. The work shall first be undertaken in areas where, in the judgment of the board, the greatest need exists; and in determining the need the board shall consider all beneficial uses essential to the general welfare of the state. Water-bearing formations may be explored by coring or other mechanical or electrical means when the area to be investigated has more than a local influence on water resources. (41st Legis., 2nd C.S., Ch. 37, Sec. 1, as amended.)

§ 11.105. Effect of Plan

(a) The state water plan, as formally adopted by the board, shall be a flexible guide to state policy for the development of water resources in this state.

(b) The commission shall take the plan into consideration in matters coming before it but is not bound by the plan.

(c) Nothing in the state water plan or any amendment or modification of the plan affects any vested right existing before August 30, 1965. (55th Legis., Ch. 425, Sec. 3, subsec. (b), sen. 10, 11, 12, as amended.)

§ 11.106. Amendment of Plan

(a) The board shall amend or modify the plan as experience and changed conditions require. The commission, when requested to do so by the board, shall hold a public hearing on any amendment or modification in the manner and for the purposes provided by Section 11.104 of this code.

(b) Any amendment or modification adopted by the board becomes a part of the plan. (55th Legis., Ch. 425, Sec. 3, subsec. (b), sen. 13, 14, as amended.)

§ 11.107. Federal Assistance in Financing Plan

The board may take all necessary action to qualify for federal assistance in financing the development and improvement of the plan. (55th Legis., Ch. 425, Sec. 3, subsec. (b), sen. 15, as amended.)

[Sections 11.108–11.140 reserved for expansion]

SUBCHAPTER E. WATER DEVELOPMENT BONDS

Section 11.141. Issuance of Water Development Bonds

The board, by resolution, from time to time may provide for the issuance of negotiable bonds in an aggregate amount not to exceed \$200 million pursuant to the provisions of Article III, Section 49–c, of the Texas Constitution. On two-thirds vote of each House of the Legislature, the board, by resolution, may issue additional negotiable bonds in an aggregate amount not to exceed \$200 million, pursuant to the provisions of Article III, Section 49–d, of the Texas Constitution. (55th Legis., Ch. 425, Sec. 4, subsec. (a), as amended; 59th Legis., Ch. 221.)

§ 11.142. Description of Bonds

The bonds shall be on a parity and shall be called Texas Water Development Bonds. The board may issue them in one or several installments and shall date the bonds of each issue. (55th Legis., Ch. 425, Sec. 4, subsec. (c), sen. 1, 3, 4 (part), as amended.)

§ 11.143. Sale Price of Bonds

The board may not sell an installment or series of bonds for an amount less than the face value of all of the bonds comprising the installment or series with accrued interest from their date of issuance. (55th Legis., Ch. 425, Sec. 8, sen. 1 (part).)

§ 11.144. Interest on Bonds

The bonds of each issue shall bear interest payable annually or semiannually at the option of the board. (55th Legis., Ch. 425, Sec. 4, subsec. (c), sen. 4 (part), as amended.)

§ 11.145. Form, Denomination, Place of Payment

The board shall:

- (1) determine the form of the bonds, including the form of any interest coupons to be attached;
- (2) fix the denomination of the bonds; and
- (3) fix the places of payment of the principal and interest. (55th Legis., Ch. 425, Sec. 4, subsec. (c), sen. 5, as amended.)

§ 11.146. Maturity of Bonds

The bonds of each issue shall mature, serially or otherwise, not more than 50 years from their date of issuance. (55th Legis., Ch. 425, Sec. 4, subsec. (c), sen. 4 (part), as amended.)

§ 11.147. Redemption Before Maturity

In the resolution providing for the issuance of bonds, the board may fix the price, terms, and conditions for redemption of bonds before maturity. (55th Legis., Ch. 425, Sec. 4, subsec. (c), sen. 4 (part), as amended.)

§ 11.148. Registered and Bearer Bonds

The resolution may provide for registration of the bonds as to ownership, successive conversion and reconversion from registered to bearer bonds, and successive conversion and reconversion from bearer to registered bonds. (55th Legis., Ch. 425, Sec. 4, subsec. (c), sen. 10, as amended.)

§ 11.149. Notice of Bond Sale

After authorizing the issuance of a series of bonds and determining to call for bids on the bonds, the board shall publish an appropriate notice of the sale:

- (1) at least one time not less than 10 days before the date of the sale in a newspaper of general statewide circulation which is published not less than seven times weekly; and
- (2) for the number of times, as the board may determine, in one or more recognized financial publications of general circulation published within the state and one or more of these publications published outside the state. (55th Legis., Ch. 425, Sec. 7, sen. 1, 2, 3, as amended.)

§ 11.150. Competitive Bids

The board shall sell the bonds only after competitive bidding to the highest and best bidder. The board may reject any or all bids. (55th Legis., Ch. 425, Sec. 8, sen. 1 (part), 2.)

§ 11.151. Security for Bids

The board shall require every bidder, except administrators of state funds, to include with the bid an exchange or cashier's check for a sum

§ 11.105. Effect of Plan

(a) The state water plan, as formally adopted by the board, shall be a flexible guide to state policy for the development of water resources in this state.

(b) The commission shall take the plan into consideration in matters coming before it but is not bound by the plan.

(c) Nothing in the state water plan or any amendment or modification of the plan affects any vested right existing before August 30, 1965. (55th Legis., Ch. 425, Sec. 3, subsec. (b), sen. 10, 11, 12, as amended.)

§ 11.106. Amendment of Plan

(a) The board shall amend or modify the plan as experience and changed conditions require. The commission, when requested to do so by the board, shall hold a public hearing on any amendment or modification in the manner and for the purposes provided by Section 11.104 of this code.

(b) Any amendment or modification adopted by the board becomes a part of the plan. (55th Legis., Ch. 425, Sec. 3, subsec. (b), sen. 13, 14, as amended.)

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The board may take all necessary action to qualify for federal assistance in financing the development and improvement of the plan. (55th Legis., Ch. 425, Sec. 3, subsec. (b), sen. 15, as amended.)

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§ 11.142. Description of Bonds

The bonds shall be on a parity and shall be called Texas Water Development Bonds. The board may issue them in one or several installments and shall date the bonds of each issue. (55th Legis., Ch. 425, Sec. 4, subsec. (c), sen. 1, 3, 4 (part), as amended.)

§ 11.143. Sale Price of Bonds

The board may not sell an installment or series of bonds for an amount less than the face value of all of the bonds comprising the installment or series with accrued interest from their date of issuance. (55th Legis., Ch. 425, Sec. 8, sen. 1 (part).)

§ 11.144. Interest on Bonds

The bonds of each issue shall bear interest payable annually or semiannually at the option of the board. (55th Legis., Ch. 425, Sec. 4, subsec. (c), sen. 4 (part), as amended.)

§ 11.145. Form, Denomination, Place of Payment

The board shall:

- (1) determine the form of the bonds, including the form of any interest coupons to be attached;
- (2) fix the denomination of the bonds; and
- (3) fix the places of payment of the principal and interest. (55th Legis., Ch. 425, Sec. 4, subsec. (c), sen. 5, as amended.)

§ 11.146. Maturity of Bonds

The bonds of each issue shall mature, serially or otherwise, not more than 50 years from their date of issuance. (55th Legis., Ch. 425, Sec. 4, subsec. (c), sen. 4 (part), as amended.)

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In the resolution providing for the issuance of bonds, the board may fix the price, terms, and conditions for redemption of bonds before maturity. (55th Legis., Ch. 425, Sec. 4, subsec. (c), sen. 4 (part), as amended.)

§ 11.148. Registered and Bearer Bonds

The resolution may provide for registration of the bonds as to ownership, successive conversion and reconversion from registered to bearer bonds, and successive conversion and reconversion from bearer to registered bonds. (55th Legis., Ch. 425, Sec. 4, subsec. (c), sen. 10, as amended.)

§ 11.149. Notice of Bond Sale

After authorizing the issuance of a series of bonds and determining to call for bids on the bonds, the board shall publish an appropriate notice of the sale:

- (1) at least one time not less than 10 days before the date of the sale in a newspaper of general statewide circulation which is published not less than seven times weekly; and
- (2) for the number of times, as the board may determine, in one or more recognized financial publications of general circulation published within the state and one or more of these publications published outside the state. (55th Legis., Ch. 425, Sec. 7, sen. 1, 2, 3, as amended.)

§ 11.150. Competitive Bids

The board shall sell the bonds only after competitive bidding to the highest and best bidder. The board may reject any or all bids. (55th Legis., Ch. 425, Sec. 8, sen. 1 (part), 2.)

§ 11.151. Security for Bids

The board shall require every bidder, except administrators of state funds, to include with the bid an exchange or cashier's check for a sum

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the board considers adequate as a forfeit guaranteeing acceptance of and payment for all bonds covered by the bids. (55th Legis., Ch. 425, Sec. 7, sen. 4, as amended.)

§ 11.152. Approval of Bonds; Registration

Before bonds are delivered to the purchasers, the bonds and the record pertaining to their issuance shall be submitted to the attorney general for his approval. When the attorney general's approval is obtained, the bonds shall be registered in the office of the state comptroller. (55th Legis., Ch. 425, Sec. 4, subsec. (c), sen. 11, 12, as amended.)

§ 11.153. Execution of Bonds

The bonds shall be executed on behalf of the board as general obligations of the state in the following manner: The chairman of the board and the development fund manager shall sign the bonds; the board shall impress its seal on the bonds; the governor shall sign the bonds; and the secretary of state shall attest the bonds and impress on them the state seal. (55th Legis., Ch. 425, Sec. 4, subsec. (c), sen. 6, as amended.)

§ 11.154. Facsimile Signatures and Seals

The resolution authorizing the issuance of an installment or series of bonds may prescribe the extent to which the board, in executing the bonds and appurtenant coupons, may use facsimile signatures and facsimile seals instead of manual signatures and manually impressed seals. Interest coupons may be signed by the facsimile signatures of the chairman of the board and the development fund manager. (55th Legis., Ch. 425, Sec. 4, subsec. (c), sen. 7, 8, as amended.)

§ 11.155. Signature of Former Officer

If an officer whose manual or facsimile signature appears on a bond or whose facsimile signature appears on any coupon ceases to be an officer before the bond is delivered, the signature is valid and sufficient for all purposes as if he had remained in office until the delivery had been made. (55th Legis., Ch. 425, Sec. 4, subsec. (c), sen. 9, as amended.)

§ 11.156. Bonds Incontestable

After approval by the attorney general, registration by the comptroller, and delivery to the purchasers, the bonds are incontestable and constitute general obligations of the state. (55th Legis., Ch. 425, Sec. 4, subsec. (d), sen. 1, as amended.)

§ 11.157. Payment by Treasurer

The state treasurer shall pay the principal on the bonds as they mature and the interest as it becomes payable. (55th Legis., Ch. 425, Sec. 10-C, sen. 2.)

§ 11.158. Payment Enforceable by Mandamus

Payment of the bonds and performance of official duties prescribed by Article III, Section 49-c, of the Texas Constitution and by the provisions of this subchapter may be enforced in any court of competent jurisdiction

by mandamus or other appropriate proceeding. (55th Legis., Ch. 425, Sec. 4, subsec. (d), sen. 2, as amended.)

§ 11.159. Refunding Bonds

The board may provide by resolution for the issuance of refunding bonds to refund outstanding bonds issued under this chapter and their accrued interest. The board may sell these bonds and use the proceeds to retire the outstanding bonds issued under this chapter or the board may exchange the refunding bonds for the outstanding bonds. The issuance of the refunding bonds, their maturity, the rights of the bondholders, and the duties of the board with respect to refunding bonds are governed by the provisions of this chapter relating to original bonds, to the extent that they may be made applicable. (55th Legis., Ch. 425, Sec. 5.)

§ 11.160. Bonds Negotiable Instruments

The bonds issued under the provisions of this chapter are negotiable instruments under the laws of this state. (55th Legis., Ch. 425, Sec. 4, subsec. (e), as amended.)

§ 11.161. Bonds not Taxable

Bonds issued under this chapter, the income from the bonds, and the profit made on their sale are free from taxation within the state. (55th Legis., Ch. 425, Sec. 6, sen. 3.)

§ 11.162. Authorized Investments

Bonds issued under this chapter are legal and authorized investments for:

- (1) banks;
- (2) savings banks;
- (3) trust companies;
- (4) building and loan associations;
- (5) insurance companies;
- (6) fiduciaries;
- (7) trustees;
- (8) guardians; and
- (9) sinking funds of cities, towns, villages, counties, school districts, and other political subdivisions and public agencies of the state. (55th Legis., Ch. 425, Sec. 6, sen. 1.)

§ 11.163. Security for Deposit of Funds

Bonds issued under this chapter, when accompanied by all appurtenant unmatured coupons, are lawful and sufficient security for all deposits of funds of the state or of a city, town, village, county, school district, or any other agency or political subdivision of the state, at the par value of the bonds. (55th Legis., Ch. 425, Sec. 6, sen. 2.)

§ 11.164. Mutilated, Lost, Destroyed Bonds

The board may provide for the replacement of any mutilated, lost, or destroyed bond. (55th Legis., Ch. 425, Sec. 4, subsec. (f), as amended.)

[Sections 11.165–11.200 reserved for expansion]

SUBCHAPTER F. FUNDING PROVISIONS

Section 11.201. Disposition of Money Received

All money received by the board shall be deposited in the state treasury and credited to the proper special fund as provided in this subchapter. (55th Legis., Ch. 425, Sec. 9 (part).)

§ 11.202. Water Development Fund

(a) The Texas Water Development Fund, referred to as the “development fund,” is a special revolving fund in the state treasury.

(b) All proceeds derived from the sale of water development bonds (except accrued interest) and other money for deposit as provided in this chapter, shall be credited to the development fund.

(c) The development fund may be used for any project and in any manner consistent with the provisions of the constitution, but the development fund may not be used for retail distribution or for transportation of water solely to retail purchasers. (55th Legis., Ch. 425, Sec. 9, subdiv. (b); Sec. 10–A, subsec. (c) (part); Sec. 12, subsec. (a), sen. 1 (part), as amended.)

§ 11.203. Water Development Clearance Fund

The Texas Water Development Clearance Fund, referred to as the “clearance fund,” is a special fund in the state treasury. Transfers shall be made from this fund as provided by this subchapter. (55th Legis., Ch. 425, Sec. 9, subdiv. (a) (part).)

§ 11.204. Interest and Sinking Fund

The Texas Water Development Bonds Interest and Sinking Fund, referred to as the “interest and sinking fund,” is a special fund in the state treasury into which there shall be paid, from sources specified in this chapter, amounts sufficient to:

- (1) pay the interest coming due on all outstanding water development bonds during the ensuing fiscal year;
- (2) pay the principal on all bonds that mature during the ensuing fiscal year, plus collection charges and exchanges on the bonds; and
- (3) establish a reserve equal to the average annual principal and interest requirements on all outstanding bonds. (55th Legis., Ch. 425, Sec. 9, subdiv. (c).)

§ 11.205. Administrative Fund

The Texas Water Development Board Administrative Fund, referred to as the “administrative fund,” is a special fund in the state treasury. From sources specified in this chapter, money shall be credited to this fund in amounts sufficient to pay the administrative expenses of the board as authorized by legislative appropriation. (55th Legis., Ch. 425, Sec. 9, subdiv. (d).)

§ 11.206. Combined Facilities Operation and Maintenance Fund

(a) The Combined Facilities Operation and Maintenance Fund is a special fund in the state treasury.

(b) Money received from the sale of water, standby service, and the lease of land needed for operation and maintenance of facilities shall be credited to this fund. Any of the money which is not needed for operation and maintenance of facilities may be credited to the interest and sinking fund or used to meet contractual obligations incurred by the board in acquiring facilities. (55th Legis., Ch. 425, Sec. 12, subsec. (k), sen. 12, 13; subsec. (o), sen. 3, as amended.)

§ 11.207. Credits to Clearance Fund

Except for proceeds from the sale of water development bonds and proceeds from the sale of bonds of political subdivisions as provided by Section 11.415 of this code, all money received by the board in any fiscal year, including all amounts received as repayment of loans to political subdivisions and interest on those loans, shall be credited to the clearance fund. Money in the clearance fund may be transferred at any time to the interest and sinking fund until the reserve in that fund is equal to the average annual principal and interest requirements on all outstanding water development bonds. (55th Legis., Ch. 425, Sec. 10-B, sen. 1, 2, as amended; Sec. 9, subdiv. (a) (part).)

§ 11.208. Transfers at End of Fiscal Year

Not later than 15 days after the end of each fiscal year, any money credited to the clearance fund at the end of the fiscal year shall be transferred to the other special funds as prescribed by Sections 11.209–11.212 of this code. (55th Legis., Ch. 425, Sec. 10-B, sen. 3 (part), as amended.)

§ 11.209. Transfers to Interest and Sinking Fund

(a) The board shall determine:

- (1) the amount of interest coming due on all bonds outstanding;
- (2) the amount of principal of bonds maturing and becoming payable during the fiscal year; and
- (3) the average annual principal and interest requirements on all outstanding bonds.

(b) The comptroller shall transfer to the interest and sinking fund, after taking into account any money and securities on deposit in the interest and sinking fund, an amount necessary to pay:

- (1) all principal and interest maturing on the bonds during the fiscal year;
- (2) all collection charges and exchanges on the bonds; and
- (3) the money sufficient to establish and maintain an additional reserve equal to the average annual principal and interest requirements on all outstanding bonds. (55th Legis., Ch. 425, Sec. 10-B, subdiv. (a), sen. 1, 2, as amended.)

§ 11.210. Additional Funds for Payment of Bonds

If the amount transferred from the clearance fund plus the money and securities in the interest and sinking fund are insufficient to pay the in-

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terest coming due and the principal maturing on the bonds during the fiscal year, then after the transfer to the interest and sinking fund of as much money as is available in the clearance fund, the state treasurer shall transfer out of the first money coming into the treasury, not otherwise appropriated by the constitution, the amount required to pay principal and interest on the bonds during the fiscal year. (55th Legis., Ch. 425, Sec. 10-B, subdiv. (a), sen. 3, as amended.)

§ 11.211. Transfers to Administrative Fund

If money remains in the clearance fund after making the transfers provided in Section 11.209 of this code, then to the extent possible the comptroller shall transfer to the administrative fund an amount sufficient to cover the legislative appropriation for administrative expenses of the board for the fiscal year. (55th Legis., Ch. 425, Sec. 10-B, subdiv. (b), as amended.)

§ 11.212. Transfers to Development Fund

If money remains in the clearance fund after making the transfers provided in Sections 11.209 and 11.211 of this code, the comptroller shall transfer the balance to the development fund at the end of each fiscal year. The board may use this money for any purpose for which it may use the proceeds of water development bonds. (55th Legis., Ch. 425, Sec. 10-B, subdiv. (c), as amended.)

§ 11.213. Investment of Reserve Money

The board may invest any money credited to the reserve portion of the interest and sinking fund in:

- (1) direct obligations of the United States;
- (2) other obligations unconditionally guaranteed by the United States;
- (3) bonds of the State of Texas; and
- (4) bonds of counties, cities, and other political subdivisions of the state, except bonds issued by a political subdivision to finance a project described by this chapter. (55th Legis., Ch. 425, Sec. 10-D, sen. 1 (part), as amended.)

§ 11.214. Limitation on Board Investment

The board is bound to the extent that the resolution authorizing the issuance of the bonds further restricts the investment of money in bonds of the United States. (55th Legis., Ch. 425, Sec. 10-D, sen. 1 (part), as amended.)

§ 11.215. Interest and Sinking Fund Investments

The board may invest the money in the interest and sinking fund, except the money in the reserve portion of the fund, only in direct obligations of the United States or obligations unconditionally guaranteed by the United States that are scheduled to mature prior to the date the board must have money available for its intended purpose. (55th Legis., Ch. 425, Sec. 10-D, sen. 1 (part), as amended.)

§ 11.216. Development Fund Investments

Surplus money in the development fund that is not needed for at least 90 days shall be invested in direct obligations of the United States or in other obligations unconditionally guaranteed by the United States maturing on or before the contemplated date on which the money will be needed. (55th Legis., Ch. 425, Sec. 10-D, sen. 2, as amended.)

§ 11.217. Sale of Securities

All of the bonds and obligations owned in the interest and sinking fund or in the development fund are defined as securities. The board may sell securities owned in the interest and sinking fund or in the development fund at the governing market price. (55th Legis., Ch. 425, Sec. 10-D, sen. 3, 4, as amended.)

§ 11.218. Transfers to be Made by Comptroller

The comptroller shall make the transfers required by this subchapter. (55th Legis., Ch. 425, Sec. 10-C, sen. 1.)

[Sections 11.219–11.250 reserved for expansion]

**SUBCHAPTER G. COOPERATION WITH
FEDERAL GOVERNMENT****Section 11.251. Designation of Board**

The board is designated as the state agency to cooperate with the Corps of Engineers of the United States Army and the Bureau of Reclamation of the United States Department of the Interior in the planning of water resource development projects in this state. (55th Legis., Ch. 425, Sec. 24, subsec. (a), as amended.)

§ 11.252. Local Sponsors for Projects

(a) When a project is proposed for planning or development by the board, the Corps of Engineers of the United States Army, or the Bureau of Reclamation of the United States Department of the Interior, any political subdivision may apply to the commission for designation as the cooperating local sponsor of the project.

(b) In the application the applicant shall:

(1) describe the purposes of the project;

(2) state the reasons for the application, the contemplated use of water the applicant might derive from the project if a permit for the use is subsequently granted by the commission; and

(3) cite the contributions the applicant is prepared to make to the planning or development of the project.

(c) No application for designation as a local sponsor shall cover more than one proposed project.

(d) The commission shall prescribe the form to be used in applications for designation as cooperating local sponsor. Before accepting the application, the commission may require that the applicant complete the prescribed form.

(e) Before making any designation of local sponsorship, the commission shall set the application for hearing and give public notice of the

hearing. Any interested party may appear and be heard for or against the designation of the applicant as project sponsor.

(f) More than one cooperating local sponsor may be designated for each project, but each applicant must comply with the provisions of this section.

(g) After a public hearing, the commission, by written order, shall grant or reject the application and shall state its reasons. The commission may set a reasonable time period for any sponsorship designation.

(h) In granting any future permit for use of water stored in a project for which it has designated a local sponsor, the commission shall fully recognize that sponsor's contributions to the planning and development of the project.

(i) To the extent that no local cooperator is prepared to undertake local sponsorship of a federal project in whole or in part, or to the extent that the board has an interest in the project, the board may be designated as sponsor of the project or as an additional cooperating sponsor. (55th Legis., Ch. 425, Sec. 24, subsec. (b), (c), as amended.)

[Sections 11.253–11.300 reserved for expansion]

SUBCHAPTER H. ACQUISITION AND DEVELOPMENT OF FACILITIES

Section 11.301. Authorized projects

The board may use the development fund for projects including the design, acquisition, lease, construction, reconstruction, development, or enlargement, in whole or in part, of any existing or proposed project. (55th Legis., Ch. 425, Sec. 12, subsec. (a), sen. 1 (part); subsec. (b), sen. 1 (part), as amended.)

§ 11.302. Joint Ventures

The board may act singly or in a joint venture in partnership with any person or entity, including any agency or political subdivision of this state, or with another state or its political subdivisions, or with the United States, or with a foreign nation, to the extent permitted by law. (55th Legis., Ch. 425, Sec. 12, subsec. (b), sen. 1 (part), as amended.)

§ 11.303. Permits Required

The board shall obtain permits from the commission for the storage, transportation, and application to beneficial use of water in reservoirs and associated works constructed by the board. (55th Legis. Ch. 425, Sec. 12, subsec. (a), sen. 2; subsec. (c), sen. 2, as amended.)

§ 11.304. Storing Water

The board may use any reservoir acquired, leased, constructed, reconstructed, developed, or enlarged by it under this chapter to store unappropriated state water and other water acquired by the state. (55th Legis., Ch. 425, Sec. 12, subsec. (k), sen. 1, as amended.)

§ 11.305. Board Findings

Before acquiring storage facilities in any reservoir, the board shall find affirmatively that:

- (1) it is reasonable to expect that the state will recover its investment in the facilities;
- (2) the cost of the facilities exceeds the current financing capabilities of the area involved, and the facilities cannot be reasonably financed by local interests without state participation;
- (3) the public interest will be served by acquisition of the facilities; and
- (4) the facilities, to be constructed or reconstructed, contemplate the optimum development of the site which is reasonably reserved under all existing circumstances of the site. (55th Legis. Ch. 425, Sec. 12, subsec. (c), sen. 1, as amended.)

§ 11.306. Facilities Wanted by Political Subdivision

The board shall not acquire any facility to the extent that a political subdivision:

- (1) is willing and reasonably able to finance the acquisition of the facility;
- (2) has qualified by obtaining the necessary permit; and
- (3) has proposals that are consistent with the objectives of the state water plan. (55th Legis., Ch. 425, Sec. 12, subsec. (b), sen. 2, as amended.)

§ 11.307. Contracts: General Authority

The board may execute contracts to the full extent that contracts are constitutionally authorized and not limited, for the design, management, acquisition, lease, construction, reconstruction, development, enlargement, operation, or maintenance, singularly or in any combination, of any existing or proposed project. (55th Legis., Ch. 425, Sec. 12, subsec. (d), sen. 1, as amended.)

§ 11.308. Specific Contracts Authorized

Contracts authorized by Section 11.307 of this code shall include, but are not limited to, the following:

- (1) contracts secured by the general credit of the state which shall constitute general obligations of the state in the same manner and with the same effect as water development bonds and principal and interest on these contracts shall be paid in the manner provided for payment of principal and interest on state bonds by the constitution;
- (2) federal grants or grants from other sources;
- (3) contracts which may be fully or partially secured by water purchase or repayment contracts executed by political subdivisions of the state for purchase of water and facilities necessary to supply present and future regional and local water requirements;
- (4) contracts with any person, including but not limited to the United States, local public agencies, power cooperatives, and investor-owned utilities, for financing, constructing, and operating facilities to operate and deliver pumping energy required for projects; and
- (5) contracts for goods and services necessary for the design, management, acquisition, lease, construction, reconstruction, develop-

ment, enlargement, implementation, operation, or maintenance, of any existing or proposed project or portion of the project. (55th Legis., Ch. 425, Sec. 12, subsec. (d), sen. 2, as amended.)

§ 11.309. Contracts: Facilities Acquired for a Term of Years

If facilities are acquired for a term of years, the board may include in the contract provisions for renewal that will protect the state's investment. (55th Legis., Ch. 425, Sec. 12, subsec. (d), sen. 3, as amended.)

§ 11.310. Maintenance Contracts

The board may execute contracts for the operation and maintenance of the state's interest in any project and may agree to pay reasonable operation and maintenance charges allocable to the state interest. (55th Legis., Ch. 425, Sec. 12, subsec. (m), as amended.)

§ 11.311. Recreational Facilities

The board may execute contracts with the United States, and with state agencies and political subdivisions, and with others to the extent authorized, for the development and operation of recreational facilities at any project in which the state has acquired an interest. Income received by the board under these contracts may be used for the same purposes as income from the sale of water. The legislature may appropriate money for the development and operation of recreational facilities at projects in which the state has acquired an interest. (55th Legis., Ch. 425, Sec. 12, subsec. (n), as amended.)

[Sections 11.312–11.350 reserved for expansion]

SUBCHAPTER I. SALE OR LEASE OF FACILITIES

Section 11.351. Board May Sell or Lease Projects

The board may sell, transfer, or lease, to the extent of its ownership, a project acquired, constructed, reconstructed, developed, or enlarged with money from the water development fund. (55th Legis., Ch. 425, Sec. 12, subsec. (e), sen. 1 (part), as amended.)

§ 11.352. Permit Required

Before the board grants the application to buy, receive, or lease the facilities, the applicant shall first secure a permit for water use from the commission. If the facilities are to be leased, the permit may be for a term of years. (55th Legis., Ch. 425, Sec. 12, subsec. (e), sen. 1 (part), as amended.)

§ 11.353. Permit: Paramount Consideration of Commission

In passing on an application for a permit under this subchapter, whether it proposes a use of water inside or outside the watershed of the impoundment, the commission shall give paramount consideration to recouping the state's investment in order to protect the public interest and promote the general welfare. (55th Legis., Ch. 425, Sec. 12, subsec. (e), sen. 2, as amended.)

§ 11.354. Contract Must Be Negotiated

The commission shall not issue the permit until the applicant has executed a contract with the board for acquisition of the facilities. (55th Legis., Ch. 425, Sec. 12, subsec. (e), sen. 3, as amended.)

§ 11.355. Reservoir Land

The board may lease acquired reservoir land until construction of the dam is completed without the necessity of a permit issued by the commission. (55th Legis., Ch. 425, Sec. 12, subsec. (e), sen. 4, as amended.)

§ 11.356. Price of Sale

The price of the sale or transfer of a state facility, other than a facility acquired under a contract, shall be the sum of the direct cost of acquisition, plus an interest charge computed at a rate of one-half of one percent a year from the date of purchase or acquisition by the board to the date of sale, plus interest annually at the cumulative average effective rate on all water development bonds sold up to the date of the sale, plus the board's cost of operating and maintaining the facility from the date of acquisition to the date of sale or transfer, less any payments received by the board from the lease of the facility or the sale of water from it. (55th Legis., Ch. 425, Sec. 12, subsec. (f), sen. 4, as amended.)

§ 11.357. Price of Sale: Facilities Acquired under Contracts

(a) The price of the sale or transfer of a facility acquired under a contract shall be the sum of the direct cost of acquisition, plus an interest charge computed at a rate of one-half of one percent per year from the date of acquisition of the facility to the date of sale or transfer, plus interest at the cumulative average effective rate on all water development bonds sold up to the date of the sale or transfer for each year or portion of a year for which the board paid interest to the other party to the contract, plus the board's cost of operating and maintaining the facility from the date of acquisition to the date of the sale or transfer, less any payments received by the board from the lease of the facility or the sale of water from it.

(b) If, in transferring any contract, the board remains in any way directly, conditionally, or contingently liable for the performance of any part of the contract, then the transferee, in addition to the payments prescribed by Subsection (a) of this section, shall pay to the board annually one-half of one percent of the remaining amount owed to the other party to the contract, and shall continue these payments until the board is fully released from the contract. (55th Legis., Ch. 425, Sec. 12, subsec. (g), as amended.)

§ 11.358. Costs Defined

With reference to the sale of a state facility, "direct cost of acquisition" means the principal amount the board has paid or agreed to pay for on the facility up to the date of the sale. (55th Legis., Ch. 425, Sec. 12, subsec. (f), sen. 1, 2, 3, as amended.)

§ 11.359. Lease Payments

In leasing a state facility for a term of years, the board shall require annual payments not less than the total of:

- (1) the annual principal and interest requirements applicable to the debt incurred by the state in acquiring the facility; and
- (2) the state's annual cost for operation, maintenance, and rehabilitation of the facility. (55th Legis., Ch. 425, Sec. 12, subsec. (h), as amended.)

§ 11.360. Sale or Lease: Condition Precedent

No sale, transfer, or lease of a state facility is valid unless the board first makes the following affirmative findings:

- (1) that the applicant has a permit granted by the commission;
- (2) that the sale, transfer, or lease will contribute to the conservation and development of the water resources of the state; and
- (3) that the consideration for the sale, transfer, or lease is fair, just, and reasonable and in full compliance with the law. (55th Legis., Ch. 425, Sec. 12, subsec. (i), as amended.)

§ 11.361. Disposition of Proceeds

(a) The money received from any sale, transfer, or lease of facilities shall be used to pay the principal of and interest on water development bonds or to meet contractual obligations incurred by the board. The money shall be collected and credited to the proper special fund as is money received in payment of principal and interest on loans to political subdivisions under this chapter, taking into consideration the manner in which the facilities were acquired.

(b) When enough money has been collected to pay all outstanding indebtedness, including the principal of all state bonds and contractual obligations and the full amount of interest to accrue on these debts, the board may use any further amounts received from the sale, transfer, or lease of facilities to acquire additional facilities or to provide assistance to political subdivisions for water supply projects. (55th Legis., Ch. 425, Sec. 12, subsec. (j), as amended.)

§ 11.362. Sale of Stored Water

The board may sell any unappropriated public water of the state and other water acquired by the state that is stored by or for it. The price will be determined by the board. (55th Legis., Ch. 425, Sec. 12, subsec. (k), sen. 2, as amended.)

§ 11.363. Permit

(a) The board may not sell the water stored in a facility to any person who has not obtained a permit from the commission. The rights of the applicant in the water are governed by the terms and conditions of the permit. The permit may be for a term of years.

(b) Whether the application for a permit involves a proposed use of water inside or outside the watershed of the impoundment, the commission shall give paramount consideration to recouping the state's invest-

ment in order to protect the public interest and promote the general welfare.

(c) The permit shall be conditioned on continued payment of the obligations assumed under the contract with the board and may provide for cancellation at any time on breach of the contract. (55th Legis., Ch. 425, Sec. 12, subsec. (k), sen. 3, 4, 5, 6, 7, as amended.)

§ 11.364. Sale Contract: Provisions, Limitations

(a) The board may determine the consideration and other provisions to be included in water sale contracts, but the consideration and other provisions shall be fair, reasonable, and nondiscriminatory. The board may include charges for standby service, which means holding water and conservation storage space for use and for actual delivery of water.

(b) The board shall make the same determinations with respect to the sale of water as are required in Section 11.360 of this code with respect to the sale or lease of facilities.

(c) The board shall not compete with any political subdivision in the sale of water when this competition jeopardizes the ability of the political subdivision to meet obligations incurred to finance its own water supply projects. (55th Legis., Ch. 425, Sec. 12, subsec. (k), sen. 8, 9, 10, 11, as amended.)

§ 11.365. Emergency Releases of Water

Unappropriated water and other water of the state stored in any facility acquired by and under the control of the board may be released without charge to relieve any emergency condition arising from drought, severe water shortage, or public calamity, if the Texas Water Rights Commission first determines the existence of the emergency and requests the board to release water. (55th Legis., Ch. 425, Sec. 12, subsec. (k), sen. 14, as amended.)

§ 11.366. Preferences

The board shall give political subdivisions a preferential right, but not an exclusive right, to purchase, acquire, or lease facilities, and to purchase water from facilities. Preferences shall be given in these respects in accord with the provisions of Section 5.122 of this code relating to preferences in the appropriation and use of state water. The board and the Texas Water Rights Commission shall coordinate their efforts to meet these objectives and to assure that the public water of this state, which is held in trust for the use and benefit of the public, will be conserved, developed, and utilized in the greatest practicable measure for the public welfare. (55th Legis., Ch. 425, Sec. 12, subsec. (1), as amended.)

§ 11.367. Lease of Land Prior to Project Construction

The board may lease tracts of land acquired for project purposes for a term of years for any purpose not inconsistent with ultimate project construction. The lease shall be scheduled to expire before initiation of project construction. (55th Legis., Ch. 425, Sec. 12, subsec. (o), sen. 1, 2 (part), as amended.)

§ 11.368. Lease Contributions Equivalent to Taxes

The lease may provide for contribution by the lessee to units of local government of amounts equivalent to ad valorem taxes or special assess-

ments. (55th Legis., Ch. 425, Sec. 12, subsec. (o), sen. 2 (part), as amended.)

[Sections 11.369–11.400 reserved for expansion]

SUBCHAPTER J. ASSISTANCE TO POLITICAL SUBDIVISIONS

Section 11.401. Financial Assistance

The development fund may be used by the board to provide financial assistance to political subdivisions for the construction, acquisition, or improvement of projects. (55th Legis., Ch. 425, Sec. 11, sen. 1; Sec. 12, subsec. (a), sen. 1 (part), as amended.)

§ 11.402. Application for Assistance

(a) In an application to the board for financial assistance, the applicant shall include:

- (1) the name of the political subdivision and its principal officers;
- (2) a citation of the law under which the political subdivision operates and was created;
- (3) the total cost of the project;
- (4) the amount of state financial assistance requested;
- (5) the plan for repaying the total cost of the project; and
- (6) any other information the board requires in order to perform its duties and to protect the public interest. (55th Legis., Ch. 425, Sec. 13.)

(b) The board may not accept an application for financial assistance unless it is submitted in affidavit form by the officials of the political subdivision. The board shall prescribe the affidavit form in its rules. The rules do not restrict or prohibit the board from requiring additional factual material from an applicant. (55th Legis., Ch. 425, Sec. 14, sen. 4, 5, as amended.)

§ 11.403. Certificate of Commission

The board may not grant an application for financial assistance until the political subdivision has furnished the board a resolution adopted by the commission certifying:

- (1) that an applicant proposing surface water development has the necessary water right authorizing it to appropriate and use the water which the project will provide; or
- (2) that an applicant proposing underground water development has the right to use water that the project will provide. (55th Legis., Ch. 425, Sec. 11, sen. 2, as amended.)

§ 11.404. Considerations in Passing on Application

In passing on an application from a political subdivision for financial assistance, the board shall consider:

- (1) the needs of the area to be served by the project and the benefit of the project to the area in relation to the needs of other areas requiring state assistance in any manner and the benefits of those projects to the other areas;

- (2) the availability of revenue to the political subdivision, from all sources, for the ultimate repayment of the cost of the project, including interest;
- (3) whether the political subdivision can reasonably finance the project without assistance from the state;
- (4) the relationship of the project to the overall, statewide water needs; and
- (5) the relationship of the project to the state water plan. (55th Legis., Ch. 425, Sec. 14, sen. 1, 2, as amended.)

§ 11.405. Approval of Application

The board by resolution may approve an application if, after considering the factors listed in Section 11.404 of this code and any other relevant factors, the board finds:

- (1) that the public interest requires state participation in the project;
- (2) that the political subdivision cannot reasonably finance the project without state assistance in the amount finally approved by the board; and
- (3) that in its opinion the revenue or taxes pledged by the political subdivision will be sufficient to meet all the obligations assumed by the political subdivision during the succeeding period of not more than 50 years. (55th Legis., Ch. 425, Sec. 14, sen. 3, as amended.)

§ 11.406. Method of Financial Assistance

The board may provide financial assistance by using money in the water development fund to purchase bonds or other securities issued by the political subdivision to finance the project. The board may purchase bonds or securities that are secondary or subordinate to other bonds or securities issued by the political subdivision to finance the same project. The board may purchase outstanding prior lien bonds previously issued by the political subdivision when this will avoid or reduce the necessity for issuing junior lien bonds for subsequent sale to the board. However, the security for both prior lien and junior lien bonds shall be pledged from substantially the same sources of revenue. (55th Legis., Ch. 425, Sec. 15, sen. 1, 2, as amended.)

§ 11.407. Bond Maturity

The board may not purchase bonds or other securities which have a maturity date more than 50 years from the date of issuance. (55th Legis., Ch. 425, Sec. 15, sen. 3, as amended.)

§ 11.408. Total Amount Limited

The board may not purchase bonds or other securities of a political subdivision in excess of \$30 million for any one project. (55th Legis., Ch. 425, Sec. 15, sen. 4, as amended.)

§ 11.409. Interest Rate

Bonds and securities purchased by the board with money in the development fund shall bear the weighted average effective interest rate on all water development bonds previously sold, plus one-half of one percent. The bonds shall bear coupons evidencing interest at a rate or combination

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of rates that will approximate the effective rate as nearly as the board deems practicable. The effective rate shall be determined by the payment of premiums or the deduction of discounts as necessary. (55th Legis., Ch. 425, Sec. 15, sen. 5, 6, as amended.)

§ 11.410. Approval and Registration

The board shall not purchase any bonds or securities that have not been approved by the attorney general and registered by the comptroller. (55th Legis., Ch. 425, Sec. 15, sen. 7 (part), as amended.)

§ 11.411. Bonds Incontestable

The bonds or other securities issued by a political subdivision are valid, binding, and incontestable after:

- (1) approval by the attorney general;
- (2) registration by the comptroller; and
- (3) sale at not less than par value and accrued interest. (55th Legis., Ch. 425, Sec. 15, sen. 7 (part), as amended.)

§ 11.412. Security for Bonds

(a) Bonds purchased by the board shall be supported by:

- (1) all or part of the net revenue from the operation of the project;
- (2) taxes levied by the political subdivision for the purpose; or
- (3) a combination of taxes and net revenue, and revenue from other available sources.

(b) The board may require that the bonds be supported both by taxes and by net revenue from the operation of the project, in any ratio the board considers necessary to fully secure the investment. The board shall establish other conditions and requirements it considers to be consistent with sound investment practices and in the public interest. (55th Legis., Ch. 425, Sec. 17.)

(c) As used in this section, "net revenue" means gross revenue less the amount necessary to provide for principal, interest, and reserve requirements of bonds superior to those purchased by the board and the amount necessary to pay the cost of maintaining and operating the project. (55th Legis., Ch. 425, Sec. 16, sen. 1.)

§ 11.413. Default

(a) In the event of a default in payment of the principal of or interest on bonds purchased by the board, or any other default as defined in the proceedings or indentures authorizing the issuance of the bonds, the attorney general shall institute appropriate proceedings by mandamus or other legal remedies to compel the political subdivision or its officers, agents, and employees to cure the default by performing those duties which they are legally obligated to perform. These proceedings shall be brought in a district court of Travis County.

(b) The provisions of this section are cumulative of any other rights or remedies to which the bondholders may be entitled. (55th Legis., Ch. 425, Sec. 16, sen. 2, 3, 4.)

§ 11.414. Sale of Bonds by Board

(a) The board may sell or dispose of bonds purchased with money in the development fund. The board may not sell the bonds for less than par value and accrued interest.

(b) The board shall first offer the bonds at their par value plus accrued interest to the issuing political subdivision at least 30 days before the date of requesting competitive bids.

(c) If the political subdivision fails to give notice to the board of its desire to acquire the bonds at par value and accrued interest within the 30-day period, then the board shall give notice of the sale of the bonds, receive competitive bids, and conduct the sale, all in the manner provided for the sale of water development bonds. (55th Legis., Ch. 425, Sec. 15, sen. 8, 10, as amended.)

§ 11.415. Proceeds From Sale

The proceeds from the sale of political subdivision bonds held by the board shall be credited to the development fund, except that accrued interest shall be credited to the interest and sinking fund. (55th Legis., Ch. 425, Sec. 15, sen. 9, as amended.)

§ 11.416. Construction Contract Requirements

(a) The governing body of each political subdivision receiving financial assistance from the fund shall require in all contracts for the construction of a project:

(1) that payment be made in partial payments as the work progresses;

(2) that each partial payment shall not exceed 90 percent of the amount due at the time of the payment as shown by the engineer of the project; and

(3) that payment of the 10 percent remaining due upon completion of the contract shall be made only after:

(A) approval by the engineer for the political subdivision as required under the bond proceedings; and

(B) certification by the board that the work to be done under the contract has been completed and performed in a satisfactory manner and in accordance with sound engineering principles and practices.

(55th Legis., Ch. 425, Sec. 18, sen. 1, 2, as amended.)

§ 11.417. Filing Construction Contract

The political subdivision shall file in the office of the board a certified copy of each construction contract it enters into for the construction of all or part of a project. Each contract shall contain or have attached to it the specifications, plans, and details of all work included in the contract. (55th Legis., Ch. 425, Sec. 18, sen. 6, 7, as amended.)

§ 11.418. Board Inspection of Projects

(a) The board may inspect the construction of a project at any time to assure that:

(1) the contractor is substantially complying with the engineering plans of the project as submitted when approval of the feasibility of the project was sought; and

(2) the contractor is constructing the project in accordance with sound engineering principles.

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(b) Inspection of a project by the board does not subject the state to any civil liability. (55th Legis., Ch. 425, Sec. 18, sen. 3, as amended.)

§ 11.419. Alteration of Plans

After board approval of engineering plans, a political subdivision may not make any substantial or material alteration in the plans unless the board authorizes the alteration. (55th Legis., Ch. 425, Sec. 18, sen. 4, as amended.)

§ 11.420. Certificate of Approval

The board may consider the following as grounds for refusal to give a certificate of approval for any construction contract:

- (1) failure to construct the project according to the plans as the board approved them or altered with the board's approval;
- (2) failure to construct the works in accordance with sound engineering principles; or
- (3) failure to comply with any term of the contract. (55th Legis., Ch. 425, Sec. 18, sen. 5, as amended.)

[Sections 11.421–11.450 reserved for expansion]

SUBCHAPTER K. IMPROVEMENTS

Section 11.451. Purpose of Subchapter

The chief purpose of this subchapter is to provide for planning and marking out upon the ground all improvements necessary to reclaim for agricultural use all overflowed land, swampland, and other land in this state that is not suitable for agricultural use because of temporary or permanent excessive accumulation of water on or contiguous to the land. (R.S. Art. 7962.)

§ 11.452. Surveys; Planning

The board shall perform all preliminary work required in the process of planning or marking out upon the ground the most practical, permanent, economical, and equitable improvements or systems of improvements including levees, dikes, dams, canals, drains, waterways, reservoirs, and other improvements incidental to them. This work includes investigations, estimates, surveys, maps, reports, and publications, and any other work which is incidental to this. (R.S. Art. 7963.)

§ 11.453. Design of Improvements or System of Improvements

As far as possible, the improvements shall be designed with primary consideration to the topographic and hydrographic conditions, and in such a manner that each division of a project shall be a complete, united project forming a coordinate part of an ultimately finished series of projects, so constituted that the successful operation of each united project shall coordinate with the successful operation of other projects within the same hydraulic influence. (R.S. Art. 7964.)

§ 11.454. Location of Projects; Reports

The board may determine the location of the improvements or systems of improvements and the time and manner of making the results public.

The board shall make records or publish reports describing the improvements or systems of improvements, and shall file in its office all final results that are of value to the state. (R.S. Arts. 7965, 7966.)

§ 11.455. Cooperation with Other Agencies

In performing its functions, the board may confer with federal and state agencies and with political subdivisions and may execute cooperative agreements with them. The board may cancel any such agreement on 10 days' notice to the other party. (R.S. Arts. 7967, 7968.)

§ 11.456. Advice to Districts

The board shall confer with districts requesting its technical advice on the adequate execution of proposed levee and drainage improvements. (R.S. Art. 7969.)

§ 11.457. Districts to File Information with Board

Immediately before having its bonds approved by the attorney general, each drainage district and levee improvement district shall file with the board, on forms furnished by the board, a complete record showing each step in the organization of the district, the amount of bonds to be issued, and a description of the area and boundaries of the district, accompanied by plans, maps, and profiles of improvements and the district engineer's estimates and reports on them. (R.S. Art. 7970.)

§ 11.458. Construction of Levee without Approval of Plans

(a) No person, corporation, or levee improvement district may construct, attempt to construct, cause to be constructed, maintain, or cause to be maintained, any levee or other such improvement on, along, or near any stream of this state that is subject to floods, freshets, or overflows, so as to control, regulate, or otherwise change the floodwater of the stream, without first obtaining approval of the plans by the board.

(b) Any person, corporation, or levee improvement district who violates any provision of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$100.

(c) At the request of the board, the attorney general shall file suit in a district court of Travis County to enjoin any violation or threatened violation of this section.

(d) This section does not apply to structures authorized by the Texas Water Rights Commission. (55th Legis., Ch. 425, Sec. 21, subdiv. (m), as amended.)

[Sections 11.459–11.500 reserved for expansion]

SUBCHAPTER L. NAVIGATION FACILITIES

Section 11.501. Improvement of Streams and Canals and Construction of Facilities within Cypress Creek Drainage Basin

The board may improve streams and canals and construct all waterways and other facilities necessary to provide for navigation within the Cypress Creek drainage basin which is located in the northeast portion of the state. (61st Legis., Ch. 157, Sec. 1, subsec. (a).)

§ 11.502. Long-Term Contracts with the United States

The board may execute long-term contracts with the United States or any of its agencies for the acquisition and development of improvements and facilities under Section 11.501 of this code. (61st Legis., Ch. 157, Sec. 1, subsec. (b).)

§ 11.503. Temporary Authority to Act for District

The board may act in behalf of a local district or districts until they can take over the project or projects in accordance with the board's agreement with the district or districts in acting as the sponsor. (61st Legis., Ch. 157, Sec. 1, subsec. (c).)

CHAPTER 14. WEATHER MODIFICATION

SUBCHAPTER A. GENERAL PROVISIONS

Section 14.001. Short Title

This chapter may be cited as the Weather Modification Act. (60th Legis., Ch. 576, Sec. 1.)

§ 14.002. Definitions

As used in this chapter, unless the context requires a different definition:

(1) "board" means the Texas Water Development Board; (60th Legis., Ch. 576, Sec. 2, subdiv. 1.)

(2) "weather modification and control" means changing or controlling, or attempting to change or control, by artificial methods, the natural development of atmospheric cloud forms or precipitation forms which occur in the troposphere; (60th Legis., Ch. 576, Sec. 2, subdiv. 4.)

(3) "operation" means the performance of weather modification and control activities entered into for the purpose of producing, or attempting to produce, a certain modifying effect within one geographical area over one continuing time interval not exceeding one year; and (60th Legis., Ch. 576, Sec. 2, subdiv. 2.)

(4) "research and development" means theoretical analysis, exploration, experimentation, and the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes. (60th Legis., Ch. 576, Sec. 2, subdiv. 3.)

[Sections 14.003–14.010 reserved for expansion]

SUBCHAPTER B. POWERS AND DUTIES OF BOARD

Section 14.011. Regulations—In General

The board may make regulations necessary to the exercise of its powers and the performance of its duties under this chapter. (60th Legis., Ch. 576, Sec. 3, subdiv. 2 (part).)

§ 14.012. Regulations—Licenses and Permits

In order to effectuate the purposes of this chapter, the board may make regulations establishing procedures and conditions for the issuance of licenses and permits. (60th Legis., Ch. 576, Sec. 9, subsec. 2, sen. 1; Sec. 10 (part).)

§ 14.013. Regulations—Safety

The board may, by regulation or order, establish any standards and instructions to govern the carrying out of research or projects in weather modification and control that the board considers necessary or desirable to minimize danger to health or property. (60th Legis., Ch. 576, Sec. 3, subdiv. 2 (part).)

§ 14.014. Studies; Investigations; Hearings

The board may make any studies or investigations, obtain any information, and hold any hearings the board considers necessary or proper to assist it in exercising its power or administering or enforcing this chapter or any regulations or orders issued under this chapter. (60th Legis., Ch. 576, Sec. 3, subdiv. 3.)

§ 14.015. Advisory Committees

The board may establish advisory committees to advise the board and to make recommendations to the board concerning legislation, policies, administration, research, and other matters. (60th Legis., Ch. 576, Sec. 3, subdiv. 1.)

§ 14.016. Personnel

The board may, as provided by the general appropriations act, appoint and fix the compensation of any personnel, including specialists and consultants, necessary to perform its duties and functions under this chapter. (60th Legis., Ch. 576, Sec. 3, subdiv. 1.)

§ 14.017. Materials and Equipment

The board may acquire, in the manner provided by law, any materials, equipment, and facilities necessary to perform its duties and functions under this chapter. (60th Legis., Ch. 576, Sec. 3, subdiv. 5.)

§ 14.018. Interstate Compacts

The board may represent the state in matters pertaining to plans, procedures, or negotiations for interstate compacts relating to weather modification and control. (60th Legis., Ch. 576, Sec. 3, subdiv. 7.)

§ 14.019. Contracts, Cooperative Agreements, Etc.

(a) The board may cooperate with public or private agencies to promote the purposes of this chapter.

(b) The board may enter into cooperative agreements with the United States or any of its agencies, or with counties and cities of this state, or with any private or public agencies, for conducting weather modification or cloud-seeding operations.

(c) The board may represent the state, counties, cities, and public and private agencies in contracting with private concerns for the perform-

ance of weather modification or cloud-seeding operations. (60th Legis., Ch. 576, Sec. 3, subdivs. 6, 8, and 9.)

§ 14.020 Promotion of Research and Development

(a) In order to assist in expanding the theoretical and practical knowledge of weather modification and control, the board shall promote continuous research and development in:

(1) the theory and development of methods of weather modification and control, including processes, materials, and devices related to these methods;

(2) the utilization of weather modification and control for agricultural, industrial, commercial, and other purposes; and

(3) the protection of life and property during research and operational activities.

(b) The board may conduct and may contract for research and development activities relating to the purposes of this section. (60th Legis., Ch. 576, Sec. 4.)

§ 14.021. Grants, Gifts, Etc.

Subject to any limitations imposed by law, the board may accept federal grants, private gifts, and donations from any other source. Unless the use of the money is restricted or subject to any limitations provided by law, the board may spend it for the administration of this chapter or may, by grant, contract, or cooperative arrangement, use the money to encourage research and development by a public or private agency. (60th Legis., Ch. 576, Sec. 6, subsec. 1.)

§ 14.022. Disposition of License and Permit Fees

The board shall deposit all license and permit fees in the state treasury. (60th Legis., Ch. 576, Sec. 6, subsec. 2.)

§ 14.023. Oaths of Witnesses; Subpoenas

(a) In conducting any hearing, the board or a representative designated by it may administer oaths and examine witnesses.

(b) The board or a representative designated by it may issue subpoenas to compel the attendance of witnesses and the production of books, records, documents, and instruments. (60th Legis., Ch. 576, Sec. 5, sen. 2.)

[Sections 14.024–14.040 reserved for expansion]

SUBCHAPTER C. LICENSES AND PERMITS

Section 14.041. License and Permit Required

Except as provided by regulation of the board under Section 14.042 of this code, no person may engage in activities for weather modification and control:

(1) without a weather modification license and a weather modification permit issued by the board; or

(2) in violation of any term or condition of the license or the permit. (60th Legis., Ch. 576, Sec. 7.)

§ 14.042. Exemptions

The board, to the extent it considers exemptions practical, shall provide by regulation for exempting the following activities from the license and permit requirements of this chapter:

- (1) research, development, and experiments conducted by state and federal agencies, institutions of higher learning, and bona fide nonprofit research organizations;
- (2) laboratory research and experiments;
- (3) activities of an emergent nature for protection against fire, frost, sleet, or fog; and
- (4) activities normally conducted for purposes other than inducing, increasing, decreasing, or preventing precipitation or hail. (60th Legis., Ch. 576, Sec. 8.)

§ 14.043. Issuance of License

(a) The board, in accordance with its regulations, shall issue a weather modification license to each applicant who:

- (1) pays the license fee; and
- (2) demonstrates, to the satisfaction of the board, competence in the field of meteorology which is reasonably necessary to engage in weather modification and control activities.

(b) If the applicant is an organization, the competence must be demonstrated by the individual or individuals who are to be in control and in charge of the operation for the applicant. (60th Legis., Ch. 576, Sec. 9, subsec. 1.)

§ 14.044. License Fee

The fee for an original or renewal license is \$50. (60th Legis., Ch. 576, Sec. 9, subsec. 2, sen. 3.)

§ 14.045. Expiration Date

Each original or renewal license expires at the end of the state fiscal year for which it was issued. (60th Legis., Ch. 576, Sec. 9, subsec. 2, sen. 2 (part).)

§ 14.046. Renewal License

At the expiration of the license period, the board shall issue a renewal license to each applicant who pays the license fee and who has the qualifications necessary for issuance of an original license. (60th Legis., Ch. 576, Sec. 9, subsec. 2, sen. 2 (part).)

[Sections 14.047–14.060 reserved for expansion]

§ 14.061. Issuance of Permit

The board, in accordance with its regulations, shall issue a weather modification permit to each applicant who:

- (1) holds a valid weather modification license;
- (2) pays the permit fee; and
- (3) publishes a notice of intention and submits proof of publication as required by this chapter. (60th Legis., Ch. 576, Sec. 10 (part).)

§ 14.062. Permit Fee

The fee for each permit is \$25. (60th Legis., Ch. 576, Sec. 15.)

§ 14.063. Scope of Permit

A separate permit is required for each operation. If an operation is to be conducted under contract, a permit is required for each separate contract. The board shall not issue a permit for a contracted operation unless it covers a continuous period not to exceed one year. (60th Legis., Ch. 576, Sec. 11, sen. 1.)

§ 14.064. Application and Notice of Intention

Before undertaking any operation, a licensee shall file an application for a permit and shall have a notice of intention published as required by this chapter. (60th Legis., Ch. 576, Sec. 11, sen. 2.)

§ 14.065. Content of Notice

In the notice of intention the applicant shall include:

- (1) the name and address of the licensee;
 - (2) the nature and object of the intended operation and the person or organization on whose behalf it is to be conducted;
 - (3) the area in which and the approximate time during which the operation is to be conducted;
 - (4) the area which is intended to be affected by the operation;
- and
- (5) the materials and methods to be used in conducting the operation.
- (60th Legis., Ch. 576, Sec. 12.)

§ 14.066. Publication of Notice

The notice of intention shall be published at least once a week for three consecutive weeks in a newspaper of general circulation published in each county in which the operation is to be conducted and in each county which includes any part of the affected area. If in any county no newspaper of general circulation is published, then publication shall be made in a newspaper having general circulation in the county. (60th Legis., Ch. 576, Sec. 13, subsec. 1.)

§ 14.067. Proof of Publication; Affidavit

The applicant shall file proof of the publication, together with the publishers' affidavits, with the board during the 15-day period immediately following the date of the last publication. (60th Legis., Ch. 576, Sec. 13, subsec. 2.)

§ 14.068. Proof of Financial Responsibility

Proof of financial responsibility is made by showing, to the satisfaction of the executive director of the board, that the licensee has the ability to respond in damages for liability which might reasonably result from the operation for which the permit is sought. (60th Legis., Ch. 576, Sec. 14.)

§ 14.069. Modification of Permit

The board may modify the terms and conditions of a permit if:

- (1) the licensee is first given notice and a reasonable opportunity for a hearing on the need for a modification; and

(2) it appears to the board that a modification is necessary to protect the health or property of any person. (60th Legis., Ch. 576, Sec. 17, subsec. 2.)

§ 14.070. Scope of Activity

Once a permit is issued, the licensee shall confine his activities substantially within the limits of time and area specified in the notice of intention, except to the extent that the limits are modified by the board. He shall also comply with any terms and conditions of the permit as originally issued or as subsequently modified by the board. (60th Legis., Ch. 576, Sec. 11, sen. 3.)

§ 14.071. Records and Reports

(a) A licensee shall keep a record of each operation conducted under permit, showing:

- (1) the method employed;
- (2) the type of equipment used;
- (3) the kind and amount of each material used;
- (4) the times and places the equipment is operated;
- (5) the name and post-office address of each individual, other than the licensee, who participates or assists in the operation; and
- (6) other information required by the board. (60th Legis., Ch. 576, Sec. 16, subsec. 1 (part).)

(b) The board shall require written reports covering each operation, whether it is exempt or conducted under a permit. (60th Legis., Ch. 576, Sec. 16, subsec. 2.)

(c) At the time and in the manner required by the board, a licensee shall submit a written report containing the information described in Subsection (a) of this section. (60th Legis., Ch. 576, Sec. 16, subsec. 1 (part).)

(d) All information on an operation shall be submitted to the board before it is released to the public. (60th Legis., Ch. 576, Sec. 16, subsec. 3.)

(e) The reports and records in the custody of the board shall be kept open for public inspection. (60th Legis., Ch. 576, Sec. 16, subsec. 4.)

[Sections 14.072–14.090 reserved for expansion]

SUBCHAPTER D. SANCTIONS

Section 14.091. Suspension; Revocation; Refusal to Renew

(a) The board may suspend or revoke a license or permit if it appears that the licensee:

- (1) no longer has the qualifications necessary for the issuance of an original license or permit; or
- (2) has violated any provision of this chapter.

(b) The board may refuse to renew the license of, or to issue another permit to, any applicant who has failed to comply with any provision of this chapter. (60th Legis., Ch. 576, Sec. 17, subsec. 1, sen. 1, 2, and 4.)

§ 14.092. Hearing Required

The board may not suspend or revoke a license or permit without first giving the licensee notice and a reasonable opportunity to be heard with

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respect to the grounds for the board's proposed action. (60th Legis., Ch. 576, Sec. 17, subsec. 1, sen. 3.)

§ 14.093. Record of Hearing

The board shall have a record made of all proceedings at each hearing held under Section 14.092 of this code, and shall have the record filed with its findings and conclusions. (60th Legis., Ch. 576, Sec. 5, sen. 1.)

[Sections 14.094–14.100 reserved for expansion]

§ 14.101. Immunity of State

The state and its officers and employees are immune from liability for all weather modification and control activities conducted by private persons and groups. (60th Legis., Ch. 576, Sec. 18, sen. 1 (part).)

§ 14.102. Private Legal Relationships

(a) This chapter does not affect private legal relationships, except that an operation conducted under the license and permit requirements of this chapter is not an ultrahazardous activity which makes the participants subject to liability without fault.

(b) The fact that a person holds a license or permit under this chapter, or that he has complied with this chapter or the regulations issued under this chapter, is not admissible as evidence in any legal proceeding brought against him. (60th Legis., Ch. 576, Sec. 18, sen. 1 (part), sen. 2.)

[Sections 14.103–14.110 reserved for expansion]

§ 14.111. Penalty

(a) A person who violates any provision of this chapter or any valid regulation or order issued under this chapter is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$100 nor more than \$1,000, or by confinement in the county jail for not more than 10 days, or by both.

(b) A separate offense is committed each day a violation continues. (60th Legis., Ch. 576, Sec. 19.)

SUBTITLE C. WATER QUALITY CONTROL

CHAPTER 21. WATER QUALITY BOARD

SUBCHAPTER A. GENERAL PROVISIONS

Section 21.001. Short Title

This chapter may be cited as the Texas Water Quality Act. (60th Legis., Ch. 313, Sec. 1.01, as amended.)

§ 21.002. Policy

It is the policy of this state and the purpose of this chapter to maintain the quality of water in the state consistent with the public health and enjoyment, the propagation and protection of terrestrial and aquatic life, the operation of existing industries, and the economic development

of the state; to encourage and promote the development and use of regional and area-wide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state; and to require the use of all reasonable methods to implement this policy. (60th Legis., Ch. 313, Sec. 1.02, as amended.)

§ 21.003. Definitions

As used in this chapter:

(1) "Board" means the Texas Water Quality Board. (60th Legis., Ch. 313, Sec. 1.03, subdiv. (2), as amended.)

(2) "Executive director" means the executive director of the Texas Water Quality Board. (60th Legis., Ch. 313, Sec. 1.03, subdiv. (3), as amended.)

(3) "Water" or "water in the state" means groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Gulf of Mexico inside the territorial limits of the state, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or nonnavigable, and including the beds and banks of all watercourses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state. (60th Legis., Ch. 313, Sec. 1.03, subdiv. (4), as amended.)

(4) "Waste" means sewage, industrial waste, municipal waste, recreational waste, agricultural waste, or other waste, as defined in this section. (60th Legis., Ch. 313, Sec. 1.03, subdiv. (5), as amended.)

(5) "Sewage" means waterborne human waste and waste from domestic activities, such as washing, bathing, and food preparation. (60th Legis., Ch. 313, Sec. 1.03, subdiv. (6), as amended.)

(6) "Municipal waste" means waterborne liquid, gaseous, or solid substances that result from any discharge from a publicly owned sewer system, treatment facility, or disposal system. (60th Legis., Ch. 313, Sec. 1.03, subdiv. (7), as amended.)

(7) "Recreational waste" means waterborne liquid, gaseous, or solid substances that emanate from any public or private park, beach, or recreational area. (60th Legis., Ch. 313, Sec. 1.03, subdiv. (8), as amended.)

(8) "Agricultural waste" means waterborne liquid, gaseous, or solid substances that arise from the agricultural industry and agricultural activities, including without limitation, agricultural animal feeding pens and lots, structures for housing and feeding agricultural animals, and processing facilities for agricultural products. The term "agricultural waste" does not include tail water or runoff water from irrigation, or rainwater runoff from cultivated or uncultivated rangeland, pastureland, and farmland. (60th Legis., Ch. 313, Sec. 1.03, subdiv. (9), as amended.)

(9) "Industrial waste" means waterborne liquid, gaseous, or solid substance that results from any process of industry, manufacturing, trade, or business. (60th Legis., Ch. 313, Sec. 1.03, subdiv. (10), as amended.)

(10) "Other waste" means garbage, refuse, decayed wood, sawdust, shavings, bark, sand, lime, cinders, ashes, offal, oil, tar, dyestuffs, acids, chemicals, salt water, or any other substance, other than sew-

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age, industrial waste, municipal waste, recreational waste, or agricultural waste, that may cause impairment of the quality of water in the state. "Other waste" also includes tail water or runoff water from irrigation, or rainwater runoff from cultivated or uncultivated range land, pasture land, and farmland that may cause impairment of the quality of the water in the state. (60th Legis., Ch. 313, Sec. 1.03, subdiv. (11), as amended.)

(11) "Pollution" means the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water in the state that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property or to public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose. (60th Legis., Ch. 313, Sec. 1.03, subdiv. (12), as amended.)

(12) "Sewer system" means pipelines, conduits, storm sewers, canals, pumping stations, force mains, and all other constructions, devices, and appurtenant appliances used to transport waste. (60th Legis., Ch. 313, Sec. 1.03, subdiv. (13), as amended.)

(13) "Treatment facility" means any plant, disposal field, lagoon, incinerator, area devoted to sanitary landfills, or other facility installed for the purpose of treating, neutralizing, or stabilizing waste. (60th Legis., Ch. 313, Sec. 1.03, subdiv. (14), as amended.)

(14) "Disposal system" means any system for disposing of waste, including sewer systems and treatment facilities. (60th Legis., Ch. 313, Sec. 1.03, subdiv. (15), as amended.)

(15) "Local government" means an incorporated city, a county, a river authority, or a water district or authority acting under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution. (60th Legis., Ch. 313, Sec. 1.03, subdiv. (16), as amended.)

(16) "Permit" means an order issued by the board in accordance with the procedures prescribed in this chapter establishing the treatment which shall be given to wastes being discharged into or adjacent to any water in the state to preserve and enhance the quality of the water, and specifying the conditions under which the discharge may be made. (60th Legis., Ch. 313, Sec. 1.03, subdiv. (17), as amended.)

(17) "To discharge" includes to deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise release or dispose of, or to allow, permit, or suffer any of these acts or omissions. (60th Legis., Ch. 313, Sec. 1.03, subdiv. (18), as amended.)

§ 21.004. Ownership of Underground Water

Nothing in this chapter affects ownership rights in underground water. (60th Legis., Ch. 313, Sec. 1.04, as amended.)

§ 21.005. Prior Actions of Pollution Control Board

(a) All permits, orders, rules, regulations, water quality criteria, water quality standards, water quality requirements, and other actions taken, performed, or established by the Texas Water Pollution Control Board under Chapter 42, Acts of the 57th Legislature, 1st Called Session, 1961, as amended (Article 7621d, Vernon's Texas Civil Statutes), are validated

and remain in effect unless and until amended or superseded by order of the Texas Water Quality Board, and are administered by and under the jurisdiction of the Texas Water Quality Board.

(b) Where the Texas Water Pollution Control Board is referred to in any statute, rule, or regulation, the reference shall be construed to mean the Texas Water Quality Board. (60th Legis., Ch. 313, Sec. 1.05, as amended.)

§ 21.006. Repeal of Other Laws

All general, local, and special laws enacted before September 1, 1969, are repealed to the extent that those laws give local governments the authority to set and enforce water quality standards other than those adopted by the board under this chapter. (60th Legis., Ch. 313, Sec. 1.13, as amended.)

[Sections 21.007–21.020 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Section 21.021. Texas Water Quality Board

The Texas Water Quality Board is an agency of the state. (60th Legis., Ch. 313, Sec. 2.01, as amended.)

§ 21.022. Members of Board

The board is composed of seven members, chosen as follows: Three are appointed by the governor with the advice and consent of the senate; and the other four are the executive director of the Texas Water Development Board, the state commissioner of health, the executive director of the Parks and Wildlife Department, and the chairman of the Texas Railroad Commission. Each of the latter four shall perform the duties of a member of the board as additional duties required of his other office. (60th Legis., Ch. 313, Sec. 2.02, as amended.)

§ 21.023. Terms of Appointed Members

The members appointed by the governor hold office for staggered terms of six years, with the term of one member expiring on the first day of September in each odd-numbered year. Each of these members holds office until his successor is appointed and has qualified. (60th Legis., Ch. 313, Sec. 2.03, as amended.)

§ 21.024. Qualification by Members

A member appointed by the governor while the senate is in session is qualified to serve on the board after his nomination has been confirmed by the senate and on taking the constitutional oath of office. A member appointed by the governor while the senate is not in session is qualified to serve on taking the constitutional oath of office, and serves until the expiration of his term or until his nomination is rejected by the senate, or is not confirmed by the senate at the next regular or special session. (60th Legis., Ch. 313, Sec. 2.04, subsec. (a), as amended.)

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§ 21.025. Record of Appointments

The official records of the board shall reflect the date each member's certificate of appointment was issued by the secretary of state, the date he took the oath of office, the person who administered the oath, the date the appointive term began, and the date the term expires. (60th Legis., Ch. 313, Sec. 2.04, subsec. (c), as amended.).

§ 21.026. Per Diem; Expenses

(a) A member of the board is not entitled to a salary for duties performed as a member of the board; but each member appointed by the governor is entitled to \$25 for each day he is in attendance at meetings, hearings, or on authorized business of the board, including time spent in traveling to and from the place of the meeting, hearing, or other authorized business.

(b) Each member of the board appointed by the governor is entitled to reimbursement for travel and other necessary expenses incurred in performing official duties, as evidenced by vouchers approved by the executive director of the board. Each of the other members is entitled to reimbursement for travel and other necessary expenses incurred in performing official duties for the board, out of funds made available for those purposes to the state agency of the member. (60th Legis., Ch. 313, Sec. 2.05, as amended.)

§ 21.027. Personal Representatives

(a) The executive director of the Texas Water Development Board, the executive director of the Parks and Wildlife Department, the state commissioner of health, and the chairman of the Texas Railroad Commission may each delegate to a personal representative from his office the authority and duty to represent him on the board; but by this delegation a member is not relieved of responsibility for the acts and decisions of his representative.

(b) While engaged in performing official board duties as authorized by a member, a personal representative stands in the place of the member for the purpose of participating in and voting on matters at board meetings and hearings, and performing other business of the board. He has all the powers and duties of the member, including the power to take testimony at board hearings.

(c) A personal representative may serve as either chairman or vice chairman of the board.

(d) A personal representative is entitled to reimbursement for travel and other necessary expenses to the same extent and in the same manner as the member he represents. (60th Legis., Ch. 313, Sec. 2.06, as amended.)

§ 21.028. Board Officers

The board shall elect a chairman and a vice chairman to serve two-year terms beginning on February 1 of each odd-numbered year. (60th Legis., Ch. 313, Sec. 2.07, as amended.)

§ 21.029. Board Meetings

(a) The chairman, or in his absence the vice chairman, shall preside at all meetings of the board. In the absence of both the chairman and the

vice chairman from any meeting of the board, the members present may select one of their number to serve as chairman for the meeting.

(b) The board shall have regular meetings at times specified by a majority vote of the board.

(c) The chairman may call special meetings at any time. He shall call a special meeting on written request signed by at least two members of the board.

(d) A majority of the board constitutes a quorum to transact business. (60th Legis., Ch. 313, Sec. 2.08, as amended.)

§ 21.030. Executive Director

The board shall employ an executive director. The executive director is the chief administrative officer of the board. In addition to his other duties, he shall keep full and accurate minutes of all transactions and proceedings of the board; and he is the custodian of all the files and records of the board. (60th Legis., Ch. 313, Sec. 2.09, as amended.)

§ 21.031. Deputy Director; Staff

(a) The executive director shall employ a deputy director, subject to the approval of the board. In the absence of the executive director, the deputy director shall assume his duties and functions.

(b) The executive director shall employ the staff authorized by the board. In addition to its own staff, the board may by interagency contract utilize, and upon the request of the board shall receive, the assistance of any state-supported educational institution, experimental station, or other state agency. (60th Legis., Ch. 313, Sec. 2.10, subsec. (a), (b), as amended.)

§ 21.032. Employee Moving Expense

When provided by legislative appropriation, the board may pay the costs of transporting and delivering the household goods and effects of employees transferred by the board from one permanent station to another when, in the judgment of the board, the transfer will serve the best interest of the state. (60th Legis., Ch. 313, Sec. 2.10, subsec. (c), as amended.)

§ 21.033. Funds from Other State Agencies

Any state agency that has statutory responsibilities for water pollution or water quality control and that receives a legislative appropriation for these purposes may transfer to the board any amount mutually agreed on by the board and the agency, subject to the approval of the governor. (60th Legis., Ch. 313, Sec. 2.11, as amended.)

§ 21.034. Gifts and Grants

The board may apply for, request, solicit, contract for, receive, and accept money and other assistance from any source to carry out its duties. (60th Legis., Ch. 313, Sec. 2.12, as amended.)

§ 21.035. Special Fund

Money received by the board under Section 21.033 or 21.034 of this code shall be deposited in the state treasury and credited to a special fund. The board may use this fund for salaries, wages, professional and consulting fees, planning and construction grants, loans and contracts,

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travel expenses, equipment, and other necessary expenses incurred in carrying out its duties under this chapter, as provided by legislative appropriation. (60th Legis., Ch. 313, Sec. 2.13, as amended.)

§ 21.036. Copies of Documents, Proceedings, Etc.

Subject to the limitations of Section 21.264 of this code, on the application of any person, the board shall furnish certified or other copies of any proceeding or other official act of record, or of any map, paper, or document filed with the board. A certified copy with the seal of the board and the signature of the chairman or the executive director is admissible as evidence in any court or administrative proceeding. (60th Legis., Ch. 313, Sec. 2.15, sen. 1, 2, as amended.)

§ 21.037. Fees for Copies

The board shall prescribe in its rules the fees which shall be charged for copies and is authorized to furnish copies, certified or otherwise, to a person without charge when the furnishing of the copies serves a public purpose. Other statutes concerning fees for copies of records do not apply to the board, except that the fees set by the board for copies prepared by the board shall not exceed those prescribed in Article 3913, Revised Civil Statutes of Texas, 1925, as amended. (60th Legis., Ch. 313, Sec. 2.15, sen. 3, 4, as amended.)

§ 21.038. Documents, Etc., State Property; Open for Inspection

All information, documents, and data collected by the board in the performance of its duties are the property of the state. Subject to the limitations of Section 21.264 of this code, all records are open to inspection by any person during regular office hours. (60th Legis., Ch. 313, Sec. 2.14, as amended.)

§ 21.039. Biennial Reports

The board shall make biennial written reports to the governor and to the legislature and shall include in each report a statement of its activities. (60th Legis., Ch. 313, Sec. 2.16, as amended.)

§ 21.040. Seal

The board shall adopt a seal. (60th Legis., Ch. 313, Sec. 2.17, as amended.)

[Sections 21.041–21.060 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Section 21.061. In General

The board shall administer the provisions of this chapter and shall establish the level of quality to be maintained in, and shall control the quality of, the water in this state as provided by this chapter. Waste discharges or impending waste discharges covered by the provisions of this chapter are subject to reasonable rules, regulations, or orders adopted or issued by the board in the public interest. The board has the powers and

duties specifically prescribed by this chapter and all other powers necessary or convenient to carry out its responsibilities. (60th Legis., Ch. 313, Sec. 3.01, as amended.)

§ 21.062. State Water Quality Plan

The board shall prepare and develop a general, comprehensive plan for the control of water quality in the state. (60th Legis., Ch. 313, Sec. 3.02, as amended.)

§ 21.063. Research, Investigations

The board shall conduct, or have conducted, any research and investigations it considers advisable and necessary for the discharge of its duties under this chapter. (60th Legis., Ch. 313, Sec. 3.03, as amended.)

§ 21.064. Power to Enter Property

The members, employees, and agents of the board are entitled to enter any public or private property at any reasonable time for the purpose of inspecting and investigating conditions relating to the quality of water in the state. Members, employees, or agents acting under this authority who enter private property shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection, and if the property has management in residence, shall notify management, or the person then in charge, of his presence and shall exhibit proper credentials. If any member, employee, or agent of the board is refused the right to enter in or on public or private property under this authority, the board may invoke the remedies authorized in Section 21.253 of this code. (60th Legis., Ch. 313, Sec. 3.04, as amended.)

§ 21.065. Power to Examine Records

The members, employees, and agents of the board may examine during regular business hours any records or memoranda pertaining to the operation of any sewer system, disposal system, or treatment facility, or pertaining to any discharge of waste. (60th Legis., Ch. 313, Sec. 3.05, as amended.)

§ 21.066. Enforcement Proceedings

The board, or the executive director when authorized by the board, may institute court proceedings to compel compliance with the provisions of this chapter or the rules, orders, permits, or other decisions of the board. (60th Legis., Ch. 313, Sec. 3.06, as amended.)

§ 21.067. Cooperation

The board shall:

(1) encourage voluntary cooperation by the people, cities, industries, associations, agricultural interests, and representatives of other interests in preserving the greatest possible utility of water in the state;

(2) encourage the formation and organization of cooperative groups, associations, cities, industries, and other water users for the purpose of providing a medium to discuss and formulate plans for attainment of water quality control;

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(3) establish policies and procedures for securing close cooperation among state agencies that have water quality control functions; and

(4) cooperate with the governments of the United States and other states, and with official or unofficial agencies and organizations, with respect to water quality control matters and with respect to formulation of interstate water quality control compacts or agreements; and when representation of state interests on a basin planning agency for water quality purposes is required under Section 3(c) of the Federal Water Pollution Control Act (33 U.S.C. Sec. 466 et seq.), or other federal legislation having a similar purpose, the representation shall include an officer or employee of the board. (60th Legis., Ch. 313, Sec. 3.07, as amended.)

§ 21.068. Contracts, Instruments

The board may make contracts and execute instruments that are necessary or convenient to the exercise of its powers or the performance of its duties. (60th Legis., Ch. 313, Sec. 3.08, as amended.)

§ 21.069. Rule-Making

The board shall make and enforce rules reasonably required to effectuate the provisions of this chapter, including rules governing procedure and practice before the board. The board may amend any rule it makes. In making and amending rules, the board shall comply, as appropriate, with the requirements of Chapter 274, Acts of the 57th Legislature, Regular Session, 1961, as amended (Article 6252—13, Vernon's Texas Civil Statutes). (60th Legis., Ch. 313, Sec. 3.09, as amended.)

§ 21.070. Orders

(a) The board is authorized to issue orders and make determinations necessary to effectuate the purposes of this chapter.

(b) The board shall set forth the findings on which it bases any order granting or denying special relief requested of the board, or involving a determination following a hearing on an alleged violation of Section 21.251 of this code, or directing a person to perform or refrain from performing a certain act or activity.

(c) The executive director shall attest the orders of the board. (60th Legis., Ch. 313, Sec. 3.10, sen. 1, 2, 3, as amended.)

§ 21.071. Temporary Orders Prior to Notice and Hearing

(a) The board, or the executive director when authorized by the board, may issue temporary orders relating to the discharge of waste without notice and hearing, or with such notice and hearing as the board or the executive director considers practicable under the circumstances, when this is necessary to enable action to be taken more expeditiously than is otherwise provided by this chapter to effectuate the policy and purposes of this chapter. (60th Legis., Ch. 313, Sec. 3.10, sen. 4, as amended.)

(b) If the board or the executive director issues a temporary order under this authority without a hearing before the board, the order shall fix a time and place for a hearing to be held before the board, which shall be held as soon after the temporary order is issued as is practicable.

(c) At the hearing, the board shall affirm, modify, or set aside the temporary order. If the nature of the board's action requires, further proceedings shall be conducted as appropriate under other applicable provisions of this chapter. (60th Legis., Ch. 313, Sec. 3.10, sen. 5, 7, 8, as amended.)

(d) The requirements of Section 21.074 of this code relating to the time for notice, newspaper notice, and method of giving a person notice do not apply to such a hearing, but such general notice of the hearing shall be given as the board or the executive director considers practicable under the circumstances. (60th Legis., Ch. 313, Sec. 3.10, sen. 6, as amended.)

§ 21.072. Hearing Powers

The board may call and hold hearings, administer oaths, receive evidence at the hearing, issue subpoenas to compel the attendance of witnesses and the production of papers and documents related to the hearing, and make findings of fact and decisions with respect to administering the provisions of this chapter or the rules, orders, or other actions of the board. (60th Legis., Ch. 313, Sec. 3.11, as amended.)

§ 21.073. Delegation of Hearing Powers

(a) Except for those hearings required to be held before the board under Section 21.071(b) of this code, the board may authorize the executive director to call and hold hearings on any subject on which the board may hold a hearing. (60th Legis., Ch. 313, Sec. 3.12, subsec. (a), sen. 1, as amended.)

(b) The board may also authorize the executive director to delegate to one or more employees of the board, or to professional or technical personnel under contract to the board, the authority to hold any hearing called by the executive director. The board may establish the qualifications required of the persons who may be delegated the authority by the executive director to hold hearings. (60th Legis., Ch. 313, Sec. 3.12, subsec. (a), sen. 2, 3, as amended.)

(c) At any hearing called by the executive director, he or the person delegated the authority by him to hold the hearing is empowered to administer oaths and receive evidence. (60th Legis., Ch. 313, Sec. 3.12, subsec. (a), sen. 4, as amended.)

(d) The individual or individuals holding a hearing under the authority of this section shall report the hearing in the manner prescribed by the board. (60th Legis., Ch. 313, Sec. 3.12, subsec. (b), as amended.)

§ 21.074. Notice of Hearings; Continuance

(a) Except as otherwise provided in Section 21.071 of this code, the provisions of this section apply to all hearings conducted in compliance with this chapter.

(b) Notice of the hearing shall describe briefly and in summary form the purpose of the hearing and the date, time, and place of the hearing.

(c) Notice of the hearing shall be published at least once in a newspaper regularly published or circulated in each county where, by virtue of the county's geographical relation to the subject matter of the hearing, the board has reason to believe persons reside who may be affected by the action that may be taken as a result of the hearing. The date of the

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publication shall be not less than 20 days before the date set for the hearing.

(d) If notice of the hearing is required by this chapter to be given to a person, the notice shall be served personally or mailed not less than 20 days before the date set for the hearing to the person at his last address known to the board. If the party is not an individual, the notice may be given to any officer, agent, or legal representative of the party.

(e) The individual or individuals holding the hearing (hereinafter in this subsection called the hearing body) shall conduct the hearing at the time and place stated in the notice. The hearing body may continue the hearing from time to time and from place to place without the necessity of publishing, serving, mailing, or otherwise issuing a new notice.

(f) If a hearing is continued and a time and place for the hearing to reconvene are not publicly announced by the person conducting the hearing at the hearing before it is recessed, a notice of any further setting of the hearing shall be served personally or mailed in the manner prescribed in Subsection (d) of this section at a reasonable time before the new setting, but it is not necessary to publish a newspaper notice of the new setting. (60th Legis., Ch. 313, Sec. 3.13, as amended.)

§ 21.075. Water Quality Standards

The board, by order, shall set water quality standards for the water in the state, and may amend the standards from time to time. The board has the sole and exclusive authority to set water quality standards for all water in the state. (60th Legis., Ch. 313, Sec. 3.14, as amended.)

§ 21.076. Hearings on Standards; Consultation

Before setting or amending water quality standards, the board shall:

(1) hold public hearings at which any person may appear and present evidence, under oath, pertinent for consideration by the board; and

(2) consult with the Texas Water Development Board and the Texas Water Rights Commission to insure that the proposed standards are not inconsistent with the objectives of the state water plan. (60th Legis., Ch. 313, Sec. 3.15, as amended.)

§ 21.077. Hearings on Standards: Notice to Whom

Notice of a hearing under Section 21.076 of this code shall be given to each of the following that the board believes may be affected:

(1) each local government whose boundary is contiguous to the water in question, or whose boundaries contain all or part of the water, or through whose boundaries the water flows;

(2) the holders of rights to appropriate water from the water in question, as shown by the records of the Texas Water Rights Commission; and

(3) the holders of permits from the board to discharge waste into or adjacent to the water in question. (60th Legis., Ch. 313, Sec. 3.16, as amended.)

§ 21.078. Standards to be Published

The board shall publish its water quality standards and amendments and shall make copies available to the public on written request. (60th Legis., Ch. 313, Sec. 3.17, as amended.)

§ 21.079. Board May Issue Permits

(a) The board may issue permits and amendments to permits for the discharge of waste into or adjacent to water in the state.

(b) A person desiring to obtain a permit or to amend a permit shall submit an application to the board containing all information reasonably required by the board or the executive director. (60th Legis., Ch. 313, Sec. 3.18, as amended.)

§ 21.080. Action on Application

(a) Except as provided in Subsection (b) of this section, a public hearing shall be held on an application for a permit or to amend a permit. Notice of the hearing shall be given to the persons who in the judgment of the board may be affected.

(b) An application to amend a permit to improve the quality of waste authorized to be discharged may be set for consideration and may be acted on by the board at a regular meeting without the necessity of holding a public hearing if the applicant does not seek to increase significantly the quantity of waste authorized to be discharged or change materially the pattern or place of discharge. Notice of the application shall be mailed to the mayor and health authorities for the city or town, and the county judge and health authorities for the county, in which the waste is or will be discharged, at least 10 days before the board meeting, and they may present information to the board on the application. (60th Legis., Ch. 313, Sec. 3.19, as amended.)

§ 21.081. Conditions of Permit; Amendment; Revocation and Suspension

(a) In each permit the board shall prescribe the conditions on which it is issued, including:

- (1) the duration of the permit;
- (2) the location of the point of discharge of the waste;
- (3) the maximum quantity of waste that may be discharged under the permit at any time and from time to time;
- (4) the character and quality of waste that may be discharged under the permit; and
- (5) any monitoring and reporting requirements prescribed by the board for the permittee.

(b) After a public hearing, notice of which shall be given to the permittee, the board may require the permittee, from time to time, for good cause, to conform to new or additional conditions. The board shall allow the permittee a reasonable time to conform to the new or additional conditions, and on application of the permittee, the board may grant additional time.

(c) A permit does not become a vested right in the permittee. After a public hearing, notice of which shall be given to the permittee, the board may revoke or suspend a permit for good cause on any of the following grounds:

- (1) the permittee has failed or is failing to comply with the conditions of the permit;
- (2) the permit is subject to cancellation or suspension under Section 21.201 of this code;
- (3) the permit or operations under the permit have been abandoned; or

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(4) the permit is no longer needed by the permittee.

(d) The notice required by Subsections (b) and (c) of this section shall be sent to the permittee at his last known address as shown by the records of the board. (60th Legis., Ch. 313, Sec. 3.20, as amended.)

§ 21.082. Permit: Effect on Recreational Water

In considering the issuance of a permit to discharge effluent into any body of water having an established recreational standard, the board shall consider any unpleasant odor quality of the effluent and the possible adverse effect that it might have on the receiving body of water; and the board may consider the odor as one of the elements of the water quality of the effluent. (60th Legis., Ch. 313, Sec. 3.21, as amended.)

§ 21.083. Control of Septic Tanks by Board

(a) Whenever it appears that, because of the nature of the soil or drainage in an area, the use of septic tanks in the area should be controlled or prohibited to prevent pollution, the board may hold a public hearing in or near the area to determine whether an order should be entered controlling or prohibiting the installation or use of septic tanks. Before entering such an order, the board shall consult with the state commissioner of health for recommendations concerning the impact of the use of septic tanks in the area on public health. (60th Legis., Ch. 313, Sec. 3.22, subsec. (a), sen. 1, 2, as amended.)

(b) If the board finds after the hearing and after consulting with the state commissioner of health that an order controlling or prohibiting the use of septic tanks in the area is necessary to prevent pollution that may directly or indirectly injure the public health, the board may enter an order to do one or more of the following:

(1) limit the number and kind of septic tanks that may be used in the area;

(2) prohibit the installation and use of additional septic tanks in the area; or

(3) provide for a gradual and systematic reduction of the number or kind of septic tanks in the area. (60th Legis., Ch. 313, Sec. 3.22, subsec. (a), sen. 3, as amended.)

(c) The board may also provide in the order for a system of licensing the installation of additional septic tanks in the area, in which case no person may install a septic tank in the area without a license. (60th Legis., Ch. 313, Sec. 3.22, subsec. (a), sen. 4, as amended.)

§ 21.084. Control of Septic Tanks by County

(a) Whenever it appears to the commissioners court of any county that because of the nature of the soil or drainage in an area in the county the use of septic tanks in that area should be controlled or prohibited to prevent pollution that may directly or indirectly injure the public health, the county may proceed in the same manner and in accordance with the same procedures as the board to hold a hearing and enter an order, resolution, or other regulation controlling or prohibiting the installation or use of septic tanks in that area.

(b) The order, resolution, or regulation may provide the same restrictions and requirements as those authorized for an order of the board entered under Section 21.083 of this code.

(c) Before the order, resolution, or other regulation becomes effective, the county shall submit it to the board and obtain the board's written approval. (60th Legis., Ch. 313, Sec. 3.22, subsec. (b), as amended.)

§ 21.085. Rating of Waste Disposal Systems

(a) After consultation with the State Department of Health, the board shall provide by rule for a system of approved ratings for municipal waste disposal systems and other waste disposal systems which the board may designate.

(b) The owner or operator of a municipal waste disposal system which attains an approved rating has the privilege of erecting signs of a design approved by the board on highways approaching or inside the boundaries of the municipality, subject to reasonable restrictions and requirements which may be established by the Texas Highway Department.

(c) In addition, the owner or operator of any waste disposal system, including a municipal system, which attains an approved rating has the privilege of erecting signs of a design approved by the board at locations which may be approved or established by the board, subject to such reasonable restrictions and requirements which may be imposed by any governmental entity having jurisdiction.

(d) If the waste disposal system fails to continue to achieve an approved rating, the board may revoke the privilege. On due notice from the board, the owner or operator of the system shall remove the signs. (60th Legis., Ch. 313, Sec. 3.23, as amended.)

§ 21.086. Approval of Disposal System Plans

(a) This section applies to all sewer systems, treatment facilities, and disposal systems, except those public sewage disposal systems for which plans are subject to review and approval by the State Department of Health or by the Texas Water Rights Commission under statutes pertaining to water districts.

(b) Before beginning construction, every person who proposes to construct or materially alter the efficiency of any sewer system, treatment facility, or disposal system to which this section applies shall submit completed plans and specifications to and obtain the approval of the plans by the board or, when authorized by the board, the executive director.

(c) The board, or the executive director when authorized by the board, shall approve the plans and specifications if they conform to the waste discharge requirements and water quality standards established by the board. (60th Legis., Ch. 313, Sec. 3.24, as amended.)

§ 21.087. Federal Grants

The board may execute agreements with the Department of the Interior, the Federal Water Pollution Control Administration, or any other federal agency that administers programs providing federal cooperation, assistance, grants, or loans for research, development, investigation, training, planning, studies, programming, and construction related to methods, procedures, and facilities for the collection, treatment, and disposal of waste or other water quality control activities. The board may accept federal funds for these purposes and for other purposes consistent with the objectives of this chapter, and may use the funds as prescribed by law or as provided by agreement. (60th Legis., Ch. 313, Sec. 3.25, as amended.)

§ 21.088. State Grants and Loans

(a) The board may use money provided by legislative appropriation to make grants or loans to municipalities and interstate agencies, as those terms are defined in the Federal Water Pollution Control Act (33 U.S.C. Sec. 466 et seq.), and to local governments, and the board may itself expend such money, for construction of treatment works, as defined in the federal act, and for construction of sewer systems, treatment facilities, and disposal systems. (60th Legis., Ch. 313, Sec. 3.26, subsec. (a), as amended.)

(b) The board may use money provided by legislative appropriation to make grants or interest-free loans to, or to contract with, local governments, regional planning commissions, and planning agencies to pay administrative and other expenses of such entities for a period of not more than three years, and the board may itself expend such money for developing effective, comprehensive water quality control and pollution abatement plans for designated areas of the state. Any loan made under this subsection shall be repaid when the resulting construction is begun. (60th Legis., Ch. 313, Sec. 3.26, subsec. (b), as amended.)

(c) The board shall not make any grant for construction under Subsection (a) of this section unless or until:

(1) the project is approved by the board and included in the state water quality plan;

(2) the board determines that the project is entitled to priority over other eligible projects on the basis of financial need as well as water quality needs;

(3) the recipient of the grant or loan agrees to pay the difference between the amount of the grant or loan and the cost of the project, which difference must be at least 20 percent of the estimated reasonable cost of the project as determined by the board; and

(4) the recipient has made provision satisfactory to the board to assure proper and efficient operation and maintenance of the project after the construction is completed. (60th Legis., Ch. 313, Sec. 3.26, subsec. (c), as amended.)

(d) In determining the desirability of construction projects and of approving state grants or loans or contracts for them, the board shall consider:

(1) the public benefits to be derived from the project and the propriety of state participation;

(2) the benefits to be derived from the protection and conservation of the water and other natural resources in the state;

(3) the relation of the ultimate cost of constructing and maintaining the project to the public interest and the public necessity for the project; and

(4) the adequacy of provisions made or proposed to assure proper and efficient operation and maintenance of the project after the construction is completed. (60th Legis., Ch. 313, Sec. 3.26, subsec. (d), as amended.)

(e) Money granted, loaned, or contracted for construction shall be used exclusively for construction costs on the approved project. (60th Legis., Ch. 313, Sec. 3.26, subsec. (e), as amended.)

§ 21.089. "Construction"

As used in Sections 21.087 and 21.088 of this code, "construction" includes:

- (1) preliminary planning to determine the economic and engineering feasibility of the project;
- (2) engineering, architectural, legal, fiscal, and economic investigations and studies;
- (3) surveys, designs, plans, working drawings, specifications, procedures, and other actions necessary to the construction of the project;
- (4) erection, building, acquisition, alteration, remodeling, improvement, and extension; and
- (5) inspection and supervision. (60th Legis., Ch. 313, Sec. 3.27, as amended.)

§ 21.090. Control of Grant, Loan, and Contract Programs

In order to implement and administer the federal and state grant, loan, and contract programs and to assure proper disbursement of and accounting for the public funds, the board shall adopt rules and procedures for the necessary engineering review and supervision, fiscal control, and fund accounting. The rules and procedures shall be consistent with federal law to the extent the board considers it applicable. The fiscal-control and fund-accounting procedures are supplemental to other procedures prescribed by state law. (60th Legis., Ch. 313, Sec. 3.28, as amended.)

§ 21.091. Accidental Discharges and Spills

(a) As used in this section:

(1) "Accidental discharge" means an act or omission through which waste or other substances are inadvertently discharged into water in the state.

(2) "Spill" means an act or omission through which waste or other substances are deposited where, unless controlled or removed, they will drain, seep, run, or otherwise enter water in the state.

(3) "Other substances" means substances which may be useful or valuable and therefore are not ordinarily considered to be waste, but which will cause pollution if discharged into water in the state. (60th Legis., Ch. 313, Sec. 3.30, subsec. (a), as amended.)

(b) Whenever an accidental discharge or spill occurs at or from any activity or facility which causes or may cause pollution, the individual operating, in charge of, or responsible for the activity or facility shall notify the office of the board as soon as possible and not later than 24 hours after the occurrence. (60th Legis., Ch. 313, Sec. 3.30, subsec. (b), as amended.)

(c) Activities which are inherently or potentially capable of causing or resulting in the spillage or accidental discharge of waste or other substances, and which pose serious or significant threats of pollution, are subject to reasonable rules or orders establishing safety and preventive measures which the board may adopt or issue. The safety and preventive measures which may be required shall be commensurate with the potential harm which could result from the escape of the waste or other substances. (60th Legis., Ch. 313, Sec. 3.30, subsec. (c), as amended.)

(d) The provisions of this section are cumulative of the other provisions in this chapter relating to waste discharges, and nothing in this

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section exempts any person from complying with or being subject to any other provision of this chapter. (60th Legis., Ch. 313, Sec. 3.30, subsec. (d), as amended.)

§ 21.092. Control of Certain Waste Discharges by Rule

Whenever the board determines that the quality of water in an area is adversely affected or threatened by the combined effects of several relatively small-quantity discharges of wastes being made for which it is not practical to issue individual permits, or that the general nature of a particular type of activity which produces a waste discharge is such that requiring individual permits is unnecessarily burdensome both to the waste discharger and the board, the board may, by rule, regulate and set the requirements and conditions for the discharges of waste. (60th Legis., Ch. 313, Sec. 3.31, as amended.)

§ 21.093. Health Hazards

The board may use any means provided by this chapter to prevent a discharge of waste that is injurious to public health. (60th Legis., Ch. 313, Sec. 3.32, as amended.)

§ 21.094. Monitoring and Reporting

The board may prescribe reasonable requirements for a person making waste discharges to monitor and report on his waste collection, treatment, and disposal activities. When in the judgment of the board significant water quality management benefits will result or water quality management needs justify, the board may also prescribe reasonable requirements for any person or persons making waste discharges to monitor and report on the quality of any water in the state which the board has reason to believe may be materially affected by the waste discharges. (60th Legis., Ch. 313, Sec. 3.33, as amended.)

[Sections 21.095–21.200 reserved for expansion]

SUBCHAPTER D. REGIONAL AND AREA-WIDE SYSTEMS

Section 21.201. Regional or Area-Wide Systems; General Policy

(a) The legislature finds and declares that it is necessary to the health, safety, and welfare of the people of this state to implement the state policy to encourage and promote the development and use of regional and area-wide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of the water in the state. (60th Legis., Ch. 313, Sec. 3.29, subsec. (a), sen. 1, as amended.)

(b) Within any standard metropolitan statistical area in the state, the board is authorized to implement this policy in the manner and in accordance with the procedure provided in Sections 21.201–21.205 of this code.

(c) In those portions of the state which are not within a standard metropolitan statistical area, the board shall observe this state policy by encouraging interested and affected persons to cooperate in developing and using regional and area-wide systems. The board may not use the procedure specified in Sections 21.201–21.205 of this code in these areas to im-

plement this policy. However, this does not affect or diminish any authority which the board may otherwise have and exercise under other provisions of this chapter. (60th Legis., Ch. 313, Sec. 3.29, subsec. (a), sen. 2, 3, as amended.)

(d) The term "standard metropolitan statistical area," as used in this section, means an area consisting of a county or one or more contiguous counties which is officially designated as such by the United States Bureau of the Budget or its successor in this function. (60th Legis., Ch. 313, Sec. 3.29, subsec. (a), sen. 4, as amended.)

§ 21.202. Hearing to Define Area of Regional or Area-Wide Systems

(a) Whenever it appears to the board that because of the existing or reasonably foreseeable residential, commercial, industrial, recreational, or other economic development in an area a regional or area-wide waste collection, treatment, or disposal system or systems are necessary to prevent pollution or maintain and enhance the quality of the water in the state, the board may hold a public hearing in or near the area to determine whether the policy stated in Section 21.201 of this code should be implemented in that area.

(b) Notice of the hearing shall be given to the local governments which in the judgment of the board may be affected. (60th Legis., Ch. 313, Sec. 3.29, subsec. (b), sen. 1, 2, as amended.)

(c) If after the hearing the board finds that a regional or area-wide system or systems are necessary or desirable to prevent pollution or maintain and enhance the quality of the water in the state, the board may enter an order defining the area in which such a system or systems are necessary or desirable. (60th Legis., Ch. 313, Sec. 3.29, subsec. (b), sen. 3, as amended.)

§ 21.203. Hearing to Designate Systems to Serve the Area Defined; Order; Etc.

(a) At the hearing held under Section 21.202 of this code, or at a subsequent hearing held in or near an area defined under Section 21.202 of this code, the board may consider whether to designate the person to provide a regional or area-wide system or systems to serve all or part of the waste collection, treatment, or disposal needs of the area defined.

(b) Notice of the hearing shall be given to the local governments and to owners and operators of any waste collection, treatment, and disposal systems who in the judgment of the board may be affected. (60th Legis., Ch. 313, Sec. 3.29, subsec. (c), sen. 1, 2, as amended.)

(c) If after the hearing the board finds that there is an existing or proposed system or systems then capable, or which in the reasonably foreseeable future will be capable, of serving the waste collection, treatment, or disposal needs of all or part of the area defined, and that the owners or operators of the system or systems are agreeable to providing the services, the board may enter an order designating the person to provide the waste collection, treatment, or disposal system or systems to serve all or part of the area defined. (60th Legis., Ch. 313, Sec. 3.29, subsec. (c), sen. 3, as amended.)

§ 21.204. Actions Available to Board After Designating Systems

(a) After the board has entered an order as authorized in Section 21.203 of this chapter, the board may, after public hearing and after giving

notice of the hearing to the persons who in the judgment of the board may be affected, take any one or more of the following actions:

(1) enter an order requiring any person discharging or proposing to discharge waste into or adjacent to the water in the state in an area defined in an order entered under Section 21.202 of this code to use a regional or area-wide system designated under Section 21.203 of this code for the disposal of his waste;

(2) refuse to grant any permits for the discharge of waste, or to approve any plans for the construction or material alteration of any sewer system, treatment facility, or disposal system in an area defined in an order entered under Section 21.202 of this code unless the permits or plans comply and are consistent with any orders entered under Sections 21.201–21.205 of this code; or

(3) cancel or suspend any permit, or amend any permit in any particular, which authorizes the discharge of waste in an area defined in an order entered under Section 21.202 of this code. (60th Legis., Ch. 313, Sec. 3.29, subsec. (d), sen. 1, as amended.)

(b) Before exercising the authority granted in this section, the board shall find affirmatively:

(1) that there is an existing or proposed regional or area-wide system designated under Section 21.203 of this code which is capable, or which in the reasonably foreseeable future will be capable, of serving the waste collection, treatment, or disposal needs of the person or persons who are the subject of an action taken by the board under this section;

(2) that the owner or operator of the designated regional or area-wide system is agreeable to providing the service; and

(3) that it is feasible for the service to be provided on the basis of waste collection, treatment and disposal technology, engineering, financial, and related considerations existing at the time, exclusive of any loss of revenue from any existing or proposed waste collection, treatment, or disposal systems in which the person or persons who are the subject of an action taken under this section have an interest. (60th Legis., Ch. 313, Sec. 3.29, subsec. (d), sen. 2, as amended.)

§ 21.205. Rates for Services by Designated Systems

(a) On motion of any interested party and after a public hearing, the board may set reasonable rates for the furnishing of waste collection, treatment, or disposal services to any person by a regional or area-wide system designated under Section 21.203 of this code.

(b) Notice of the hearing shall be given to the owner or operator of the designated regional or area-wide system, the person requesting the hearing, and any other person who, in the judgment of the board, may be affected by the action taken by the board as a result of the hearing.

(c) After the hearing the board shall enter an order setting forth its findings and the rates which may be charged for the services by the owner or operator of the designated regional or area-wide system. (60th Legis., Ch. 313, Sec. 3.29, subsec. (e), as amended.)

[Sections 21.206–21.250 reserved for expansion]

**SUBCHAPTER E. PROHIBITION AGAINST POLLUTION;
ENFORCEMENT****Section 21.251. Unauthorized Discharges Prohibited**

(a) Except as authorized by a rule, regulation, permit, or other order issued by the board, or the executive director when authorized by the board, no person may:

(1) discharge sewage, municipal waste, recreational waste, agricultural waste, or industrial waste into or adjacent to any water in the state;

(2) discharge other waste into or adjacent to any water in the state which in itself, or in conjunction with any other discharge or activity, causes, continues to cause, or will cause pollution of any of the water in the state; or

(3) commit any other act or engage in any other activity, which in itself, or in conjunction with any other discharge or activity, causes, continues to cause, or will cause pollution of any of the water in the state, unless the activity is under the jurisdiction of the Parks and Wildlife Department, the General Land Office, or the Texas Railroad Commission, in which case this Subdivision (3) does not apply. (60th Legis., Ch. 313, Sec. 4.01, subsec. (a), as amended.)

(b) In the enforcement of Subdivisions (2) and (3) of Subsection (a) of this section, consideration shall be given to the state of existing technology, economic feasibility, and the water quality needs of the waters that might be affected. (60th Legis., Ch. 313, Sec. 4.01, subsec. (b), as amended.)

(c) No person may cause, suffer, allow, or permit the discharge of any waste or the performance of any activity in violation of this chapter or of any rule, regulation, permit, or other order of the board. (60th Legis., Ch. 313, Sec. 4.01, subsec. (c), as amended.)

§ 21.252. Civil Penalty

A person who violates any provision of this chapter or any rule, regulation, permit, or other order of the board is subject to a civil penalty of not less than \$50 nor more than \$1,000 for each act of violation and for each day of violation, to be recovered as provided in this subchapter. (60th Legis., Ch. 313, Sec. 4.01, subsec. (d), as amended.)

§ 21.253. Enforcement by Board

(a) Whenever it appears that a person has violated or is violating, or is threatening to violate, any provision of this chapter, or any rule, regulation, permit, or other order of the board, then the board, or the executive director when authorized by the board, may have a civil suit instituted in a district court for injunctive relief to restrain the person from continuing the violation or threat of violation, or for the assessment and recovery of a civil penalty of not less than \$50 nor more than \$1,000 for each act of violation and for each day of violation, or for both injunctive relief and civil penalty.

(b) Upon application for injunctive relief and a finding that a person is violating or threatening to violate any provision of this chapter or any rule, permit, or other order of the board, the district court shall grant the

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injunctive relief the facts may warrant. (60th Legis., Ch. 313, Sec. 4.02, subsec. (a), as amended.)

(c) At the request of the board, or the executive director when authorized by the board, the attorney general shall institute and conduct a suit in the name of the State of Texas for injunctive relief or to recover the civil penalty or for both injunctive relief and penalty, as authorized in Subsection (a) of this section. (60th Legis., Ch. 313, Sec. 4.02, subsec. (b), as amended.)

§ 21.254. Enforcement by Others

(a) Whenever it appears that a violation or threat of violation of any provision of Section 21.251 of this code or any rule, regulation, permit, or other order of the board has occurred or is occurring within the jurisdiction of a local government, exclusive of its extraterritorial jurisdiction, the local government, in the same manner as the board, may have a suit instituted in a district court through its own attorney for the injunctive relief or civil penalties or both, as authorized in Subsection (a) of Section 21.253 of this code, against the person who committed, or is committing or threatening to commit, the violation. This power may not be exercised by a local government unless its governing body adopts a resolution authorizing the exercise of the power. In a suit brought by a local government under this section, the board is a necessary and indispensable party. (60th Legis., Ch. 313, Sec. 4.03, subsec. (a), as amended.)

(b) Whenever it appears that a violation or a threat of violation of any provision of Section 21.251 of this code or any rule, regulation, permit, or other order of the board has occurred or is occurring that affects aquatic life or wildlife, the Parks and Wildlife Department, in the same manner as the board, may have a suit instituted in a district court for injunctive relief or civil penalties or both, as authorized in Section 21.253(a) of this code, against the person who committed or is committing, or is threatening to commit, the violation. The suit shall be brought in the name of the State of Texas through the county attorney or the district attorney, as appropriate, of the county where the defendant resides or in the county where the violation or threat of violation occurs. (60th Legis., Ch. 313, Sec. 4.03, subsec. (b), as amended.)

§ 21.255. Venue and Procedure

(a) A suit for injunctive relief or recovery of a civil penalty or for both injunctive relief and penalty may be brought either in the county in which the defendant resides or in the county in which the violation or threat of violation occurs. (60th Legis., Ch. 313, Sec. 4.04, subsec. (a), as amended.)

(b) In any suit brought to enjoin a violation or threat of violation of this chapter or any rule, regulation, permit, or other order of the board, the court may grant the board, the Parks and Wildlife Department, or the local government, without bond or other undertaking, any prohibitory or mandatory injunction the facts may warrant, including temporary restraining orders after notice and hearing, temporary injunctions, and permanent injunctions. (60th Legis., Ch. 313, Sec. 4.04, subsec. (b), as amended.)

(c) A suit brought under this chapter shall be given precedence over all other cases of a different nature on the docket of the trial or appellate court. (60th Legis., Ch. 313, Sec. 4.04, subsec. (c), as amended.)

(d) Either party may appeal from a final judgment of the court as in other civil cases. (60th Legis., Ch. 313, Sec. 4.04, subsec. (d), as amended.)

§ 21.256. Disposition of Civil Penalties

(a) All civil penalties recovered in suits instituted by the State of Texas under this chapter through the board or the Parks and Wildlife Department shall be paid to the General Revenue Fund of the State of Texas. (60th Legis., Ch. 313, Sec. 4.04, subsec. (e), as amended.)

(b) All civil penalties recovered in suits instituted by a local government or governments under this chapter shall be equally divided between the State of Texas and the local government or governments first instituting the suit, with 50 percent of the recovery to be paid to the General Revenue Fund of the State of Texas and the other 50 percent paid equally to the local government or governments first instituting the suit. (60th Legis., Ch. 313, Sec. 4.04, subsec. (f), as amended.)

§ 21.257. Board as Principal Authority

The Texas Water Quality Board is the principal authority in the state on matters relating to the quality of the water in the state. The board has the responsibility for establishing a water quality sampling and monitoring program for the state. All other state agencies engaged in water quality or water pollution control activities shall coordinate those activities with the board. (60th Legis., Ch. 313, Sec. 1.06, as amended.)

§ 21.258. Water Development Board: Groundwater Quality

The Texas Water Development Board shall investigate all matters concerning the quality of groundwater in the state and shall report its findings and recommendations to the Texas Water Quality Board. (60th Legis., Ch. 313, Sec. 1.07, sen. 1, as amended.)

§ 21.259. Duty of Parks and Wildlife Department

The Parks and Wildlife Department and its authorized employees shall enforce the provisions of this chapter to the extent that any violation affects aquatic life and wildlife as provided in Section 21.254(b) of this code. (60th Legis., Ch. 313, Sec. 1.08, as amended.)

§ 21.260. Duty of Health Department

The State Department of Health shall continue to apply the authority vested in it by Chapter 178, Acts of the 49th Legislature, 1945, as last amended by Chapter 446, Acts of the 57th Legislature, Regular Session, 1961 (Article 4477—1, Vernon's Texas Civil Statutes), in the abatement of nuisances resulting from pollution not otherwise covered by this chapter. The State Department of Health shall investigate and make recommendations to the board concerning the health aspects of matters related to the quality of the water in the state. (60th Legis., Ch. 313, Sec. 1.09, as amended.)

§ 21.261. Duties of Railroad Commission

The Texas Railroad Commission is solely responsible for the control and disposition of waste and the abatement and prevention of pollution of surface and subsurface water resulting from activities associated with the exploration, development, and production of oil or gas. The commis-

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sion may issue permits for the discharge of waste resulting from these activities; and discharge of waste into water in this state resulting from these activities shall meet the water quality standards established by the board. (60th Legis., Ch. 313, Sec. 1.10, sen. 1, 2, as amended.)

§ 21.262. Act of God, War, Etc.

Any pollution, or any discharge of waste without a permit or in violation of a permit, caused by an act of God, war, strike, riot, or other catastrophe is not a violation of this chapter. (60th Legis., Ch. 313, Sec. 4.05, as amended.)

§ 21.263. Effect on Private Remedies

Nothing in this chapter affects the right of any private corporation or individual to pursue any available common-law remedy to abate a condition of pollution or other nuisance or to recover damages. (60th Legis., Ch. 313, Sec. 1.11, as amended.)

§ 21.264. Secret Processes, Etc.

Nothing in this chapter requires any person to disclose any classified data of the federal government or any confidential information relating to secret processes or economics of operation. (60th Legis., Ch. 313, Sec. 1.12, as amended.)

§ 21.265. Effect on Other Laws

(a) Nothing in this chapter affects the powers and duties of the Texas Water Quality Board and the Texas Railroad Commission with respect to injection wells as provided in Chapter 22 of this code.

(b) The Texas Water Development Board and the Texas Water Well Drillers Board shall continue to exercise the authority granted to them in Chapter 264, Acts of the 59th Legislature, Regular Session, 1965 (Article 7621e, Vernon's Texas Civil Statutes). (60th Legis., Ch. 313, Sec. 1.07, sen. 2, 3; Sec. 1.10, sen. 3, as amended.)

[Sections 21.266–21.350 reserved for expansion]

SURCHAPTER F. AUTHORITY OF LOCAL GOVERNMENTS

Section 21.351. Inspection of Public Water

A local government may inspect the public water in its area and determine whether or not:

- (1) the quality of the water meets the state water quality standards adopted by the board;
- (2) persons discharging effluent into the public water located in the areas of which the local government has jurisdiction have obtained permits for discharge of the effluent; and
- (3) persons who have permits are making discharges in compliance with the requirements of the permits. (60th Legis., Ch. 313, Sec. 5.01, as amended.)

§ 21.352. Recommendations to Board

A local government may make written recommendations to the board as to what in its judgment the water quality standards should be for any public water within its territorial jurisdiction. (60th Legis., Ch. 313, Sec. 5.02, as amended.)

§ 21.353. Power to Enter Property

(a) A local government has the same power as the board has under Section 21.064 of this code to enter public and private property within its territorial jurisdiction to make inspections and investigations of conditions relating to water quality. The local government in exercising this power is subject to the same provisions and restrictions as the board.

(b) When requested by the board, the result of any inspection or investigation made by the local government shall be transmitted to the board for its consideration. (60th Legis., Ch. 313, Sec. 5.03, as amended.)

§ 21.354. Enforcement Action

A local government may bring an enforcement action under this chapter in the manner provided in Subchapter E of this chapter for local governments. (60th Legis., Ch. 313, Sec. 5.04, as amended.)

§ 21.355. Cooperative Agreements

A local government may execute cooperative agreements with the board or other local governments:

(1) to provide for the performance of water quality management, inspection, and enforcement functions and to provide technical aid and educational services to any party to the agreement; and

(2) for the transfer of money or property from any party to the agreement to another party to the agreement for the purpose of water quality management, inspection, enforcement, technical aid and education, and the construction, ownership, purchase, maintenance, and operation of disposal systems. (60th Legis., Ch. 313, Sec. 5.05, as amended.)

[Sections 21.356–21.450 reserved for expansion]

SUBCHAPTER G. JUDICIAL REVIEW**Section 21.451. Appeal of Board Action**

(a) A person affected by any ruling, order, decision, or other act of the board may appeal by filing a petition in a district court of Travis County or in a district court of the county of his residence.

(b) The petition must be filed within 30 days after the date of the board's action, or, in case of a ruling, order, or decision, within 30 days after its effective date.

(c) Service of citation on the board must be accomplished within 30 days after the date the petition is filed. Citation may be served on the executive director or the deputy director.

(d) The plaintiff shall pursue his action with reasonable diligence. If the plaintiff does not prosecute his action within 18 months after the action is filed, the court shall presume that the action has been abandoned.

The court shall dismiss the suit on a motion for dismissal made by the attorney general unless the plaintiff, after receiving due notice, can show good and sufficient cause for the delay.

(e) In an appeal of a board action other than cancellation or suspension of a permit, the issue is whether the action is invalid, arbitrary, or unreasonable.

(f) An appeal of the cancellation or suspension of a permit shall be tried in the same manner as appeals from the justice court to the county court. (60th Legis., Ch. 313, Sec. 6.01, as amended.)

[Sections 21.452–21.550 reserved for expansion]

SUBCHAPTER H. CRIMINAL PROSECUTION

Section 21.551. Definitions

As used in this subchapter:

(1) “Water” includes both surface and subsurface water; and “water in the state” means any water within the jurisdiction of the state.

(2) “Water pollution” means the alteration of the physical, chemical, or biological quality of, or the contamination of, any of the water in the state that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to public health, safety, or welfare, or impairs the usefulness or public enjoyment of the water for any lawful or reasonable purpose.

(3) “Person” means an individual or private corporation.

(4) “Waste” means sewage, industrial waste, municipal waste, recreational waste, agricultural waste, or other waste defined in this section.

(5) “Sewage” means waterborne human or animal wastes from residences, buildings, industrial establishments, cities, towns, or other places together with groundwater infiltration and surface water with which it is commingled.

(6) “Municipal waste” means waterborne liquid, gaseous, solid, or other waste substances or a combination of these that result from any discharge arising within or emanating from, or subject to the control of any municipal corporation, city, town, village, or municipality.

(7) “Recreational waste” means waterborne liquid, gaseous, solid, or other waste substances or a combination of these that arise within or emanate from any public or private park, beach, or recreational area.

(8) “Agricultural waste” means waterborne liquid, gaseous, solid, or other waste substance that arises from any type of public or private agricultural activity, including poisons and insecticides used in agricultural activities.

(9) “Industrial waste” means waterborne liquid, gaseous, solid, or other waste substances or a combination of these that result from any process of industry, manufacturing, trade, or business.

(10) “Other waste” means garbage, refuse, decayed wood, sawdust, shavings, bark, sand, lime, cinders, ashes, offal, oil, tar, dyestuffs, acids, chemicals, salt water, or any other substance, other than sewage, industrial waste, municipal waste, recreational waste, or agricul-

tural waste, that may cause the quality of water in the state to be impaired.

(11) "To discharge" includes to deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise release or dispose of. (P.C. Art. 698c, Sec. 1, as added.)

§ 21.552. Criminal Offense

(a) No person may discharge, or cause or permit the discharge of, any waste into or adjacent to any water in the state which causes or which will cause water pollution unless the waste is discharged in compliance with a permit or other order issued by the Texas Water Quality Board, the Texas Water Development Board, or the Texas Railroad Commission.

(b) No person to whom the Texas Water Quality Board has issued a permit or other order authorizing the discharge of any waste at a particular location may discharge, or cause or permit the discharge of, the waste in violation of the requirements of the permit or order. (P.C. Art. 698c, Sec. 2, 3, as added.)

§ 21.553. Criminal Penalty

A person who violates the provisions of Section 21.552 of this chapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$1,000. Each day that a violation occurs constitutes a separate offense. (P.C. Art. 698c, Sec. 4, as added.)

§ 21.554. Peace Officers

For purposes of this subchapter, the authorized agents and employees of the Parks and Wildlife Department are constituted peace officers. These agents and employees are empowered to enforce the provisions of this subchapter the same as any other peace officer, and for such purpose shall have the powers and duties of peace officers as set forth in the Code of Criminal Procedure. (P.C. Art. 698c, Sec. 5, as added.)

§ 21.555. Act of God, War, Etc.

Any waste discharge otherwise punishable under this subchapter which is caused by an act of God, war, riot, or other catastrophe, is not a violation of this subchapter. (P.C. Art. 698c, Sec. 6, as added.)

§ 21.556. Venue

Venue for prosecution of any alleged violation is in the county court, the county criminal court, or the county court-at-law of the county in which the violation is alleged to have occurred. (P.C. Art. 698c, Sec. 7, as added.)

§ 21.557. Allegations

In alleging the name of a defendant private corporation, it is sufficient to state in the complaint, indictment, or information the corporate name, or to state any name or designation by which the corporation is known or may be identified. It is not necessary to allege that the defendant was lawfully incorporated. (P.C. Art. 698c, Sec. 8, as added.)

§ 21.558. Summons and Arrest

(a) After a complaint is filed or an indictment or information presented against a private corporation under the provisions of this subchapter, the court or clerk shall issue a summons to the corporation. The summons shall be in the same form as a *capias* except that:

(1) it shall summon the corporation to appear before the court named at the place stated in the summons;

(2) it shall be accompanied by a certified copy of the complaint, indictment, or information; and

(3) it shall provide that the corporation appear before the court named at or before 10 a. m. of the Monday next after the expiration of 20 days after it is served with summons, except when service is made upon the secretary of state, in which instance the summons shall provide that the corporation appear before the court named at or before 10 a. m. of the Monday next after the expiration of 30 days after the secretary of state is served with summons.

(b) No individual may be arrested upon a complaint, indictment, or information against a private corporation. (P.C. Art. 698c, Sec. 9, as added.)

§ 21.559. Service of Summons

(a) A peace officer shall serve a summons on a private corporation by personally delivering a copy of it to the corporation's registered agent for service. If a registered agent has not been designated or cannot, with reasonable diligence, be found at the registered office, the peace officer shall serve the summons by personally delivering a copy of it to the president or a vice president of the corporation.

(b) If the peace officer certifies on the return that he diligently but unsuccessfully attempted to effect service under Subsection (a) of this section, or if the corporation is a foreign corporation that has no certificate of authority, he shall serve the summons on the secretary of state by personally delivering a copy of it to him, or to the assistant secretary of state, or to any clerk in charge of the corporation department of his office. On receipt of the summons copy, the secretary of state shall immediately forward it by certified or registered mail, return receipt requested, addressed to the defendant corporation at its registered office or, if it is a foreign corporation, at its principal office in the state or country under whose law it was incorporated.

(c) The secretary of state shall keep a permanent record of the date and time of receipt and his disposition of each summons served under Subsection (b) of this section together with the return receipt. (P.C. Art. 698c, Sec. 10, as added.)

§ 21.560. Arraignment and Pleadings

In all criminal actions instituted against a private corporation under the provisions of this subchapter:

(1) appearance is for the purpose of arraignment; and

(2) the corporation has 10 full days after the day the arraignment takes place and before the day the trial begins to file written pleadings. (P.C. Art. 698c, Sec. 11, as added.)

§ 21.561. Appearance

(a) A defendant private corporation appears through counsel or its representative.

(b) If a private corporation does not appear in response to summons, or appears but fails or refuses to plead, it is considered to be present in person for all purposes, and the court shall enter a plea of not guilty in its behalf, and may proceed with trial, judgment, and sentencing.

(c) After appearing and entering a plea in response to summons, if a private corporation is absent without good cause at any time during later proceedings, it is considered to be present in person for all purposes, and the court may proceed with trial, judgment, or sentencing. (P.C. Art. 698c, Sec. 12, as added.)

§ 21.562. Fine Treated as Judgment in Civil Action

If a private corporation is found guilty of a violation of this subchapter and a fine imposed, the fine shall be entered and docketed by the clerk of the court as a judgment against the corporation, and the fine shall be of the same force and effect and be enforced against the corporation in the same manner as if the judgment were recovered in a civil action. (P.C. Art. 698c, Sec. 13, as added.)

§ 21.563. Cumulative Provisions

Nothing in this subchapter repeals or amends any of the provisions of Subchapters A through F of this chapter, Chapter 22 of this code, or Article 6029a, Revised Civil Statutes, 1925, as added; but this subchapter is cumulative of those acts and they remain in full force and effect. (P.C. Art. 698c, Sec. 15, as added.)

§ 21.564. Effect on Certain Other Laws

To the extent that any general or special law, including Article 695, Penal Code of Texas, 1925, makes an act or omission a criminal offense, and which act or omission also constitutes a criminal offense under this subchapter, the other general or special law is repealed, but only to that extent. (P.C. Art. 698c, Sec. 14, subsec. (b), as added.)

CHAPTER 22. DISPOSAL WELLS**SUBCHAPTER A. GENERAL PROVISIONS****Section 22.001. Short Title**

This chapter may be cited as the Disposal Well Act. (57th Legis., Ch. 82, Sec. 1, as amended.)

§ 22.002. Definitions

In this chapter:

(1) "Board" means the Texas Water Quality Board. (57th Legis., Ch. 82, Sec. 2, Subsec. (a) as amended.)

(2) "Commission" means the Texas Railroad Commission.

(3) "Pollution" means the alteration of the physical, chemical, or biological quality of, or the contamination of, water that makes it harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to public health, safety, or welfare, or impairs the

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usefulness or the public enjoyment of the water for any lawful or reasonable purpose. (57th Legis., Ch. 82, Sec. 2, Subsec. (b), (d), as amended.)

(4) "Industrial and municipal waste" means any liquid, gaseous, solid, or other waste substance, or combination of these substances, which may cause or might reasonably be expected to cause pollution of fresh water and which result from

(A) processes of industry, manufacturing, trade, or business;

(B) development or recovery of natural resources other than oil or gas; or

(C) disposal of sewage or other wastes of cities, towns, villages, communities, water districts, and other municipal corporations.

(5) "Oil and gas waste" means waste arising out of or incidental to drilling for or producing of oil or gas which includes, but is not limited to, salt water, brine, sludge, drilling mud, and other liquid or semiliquid waste material. (57th Legis., Ch. 82, Sec. 2, Subsec. (e), (i), as amended.)

(6) "Fresh water" means water having bacteriological, physical, and chemical properties which make it suitable and feasible for beneficial use for any lawful purpose.

(7) "Casing" means material lining used to seal off strata at and below the earth's surface.

(8) "Disposal well" means an artificial⁵ excavation or opening in the ground made by digging, boring, drilling, jetting, driving, or some other method, and used to inject, transmit, or dispose of industrial and municipal waste or oil and gas waste into a subsurface stratum; or a well initially drilled to produce oil and gas which is used to transmit, inject, or dispose of industrial and municipal waste or oil and gas waste into a subsurface stratum; but the term does not include any surface pit, surface excavation, or natural depression used to dispose of industrial and municipal waste or oil and gas waste. (57th Legis., Ch. 82, Sec. 2, Subsec. (f), (g), (h), as amended.)

[Sections 22.003–22.010 reserved for expansion]

SUBCHAPTER B. INDUSTRIAL AND MUNICIPAL WASTE

Section 22.011. Permit from Board

No person may begin drilling a disposal well or converting an existing well into a disposal well to dispose of industrial and municipal waste without first obtaining a permit from the Texas Water Quality Board. (57th Legis., Ch. 82, Sec. 3, Subsec. (a), sen. 1, as amended.)

§ 22.012. Application for Permit

The board shall prescribe forms for application for a permit and shall make the forms available on request without charge. (57th Legis., Ch. 82, Sec. 3, Subsec. (a), sen. 2, as amended.)

5. So in enrolled bill.

§ 22.013. Information Required of Applicant

The board shall require an applicant to furnish any information the board considers necessary to discharge its duties under this chapter. (57th Legis., Ch. 82, Sec. 3, Subsec. (a), sen. 3, as amended.)

§ 22.014. Application Fee

With each application, the board shall collect a fee of \$25 for the benefit of the state. (57th Legis., Ch. 82, Sec. 3, Subsec. (a), sen. 4, as amended.)

§ 22.015. Letter from Railroad Commission

A person making application to the board for a permit under this chapter shall submit with the application a letter from the commission stating that drilling the disposal well and injecting industrial and municipal waste into the subsurface stratum will not endanger or injure any oil or gas formation. (57th Legis., Ch. 82, Sec. 3, Subsec. (e), as amended.)

§ 22.016. Inspection of Well Location

On receiving an application for a permit, the board shall have an inspection made of the location of the proposed disposal well to determine the local conditions and the probable effect of the well, and shall determine the requirements for the setting of casing, as provided in Sections 22.051, 22.055, and 22.056 of this code. (57th Legis., Ch. 82, Sec. 3, Subsec. (b), as amended.)

§ 22.017. Recommendations from Other Agencies

The board shall send to the Texas Water Development Board, the State Department of Health, the Texas Water Well Drillers Board, and to other persons which the board may designate, copies of every application received in proper form. These agencies and persons may make recommendations to the board concerning any aspect of the application, and shall have reasonable time to do so as the board may prescribe. (57th Legis., Ch. 82, Sec. 3, Subsec. (c), as amended.)

§ 22.018. Hearing on Permit Application

If it is considered necessary and in the public interest, the board may hold a public hearing on the application. (57th Legis., Ch. 82, Sec. 3, Subsec. (d), sen. 1, as amended.)

§ 22.019. Board Rules, Etc.

(a) The board shall adopt rules, regulations, and procedures reasonably required for the performance of its powers, duties, and functions under this chapter, including rules for notice and procedure of public hearings. (57th Legis., Ch. 82, Sec. 3, Subsec. (d), sen. 2; and Sec. 5, sen. 9, as amended.)

(b) Copies of any rules or regulations under this chapter proposed by the board shall, before their adoption, be sent to the Texas Railroad Commission, the Texas Water Development Board, the State Department of Health, the Texas Water Well Drillers Board, and any other persons the board may designate. Any agency or person to whom the copies of proposed rules and regulations are sent may submit comments and recom-

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mendations to the board, and shall have reasonable time to do so as the board may prescribe. (57th Legis., Ch. 82, Sec. 5, sen. 10, 11, as amended.)

[Sections 22.020–22.030 reserved for expansion]

SUBCHAPTER C. OIL AND GAS WASTE

Section 22.031. Permit from Commission

No person may begin drilling a disposal well or converting an existing well into a disposal well to dispose of oil and gas waste without first obtaining a permit from the Railroad Commission of Texas. (57th Legis., Ch. 82, Sec. 4, Subsec. (a), sen. 1, as amended.)

§ 22.032. Information Required of Applicant

The commission shall require an applicant to furnish any information the commission considers necessary to discharge its duties under this chapter. (57th Legis., Ch. 82, Sec. 4, Subsec. (a), sen. 2 (part), as amended.)

§ 22.033. Letter from Water Quality Board

A person making application to the commission for a permit under this chapter shall submit with the application a letter from the board stating that drilling the disposal well and injecting oil and gas waste into the subsurface stratum will not endanger the freshwater strata in that area and that the formation or stratum to be used for the disposal is not freshwater sand. (57th Legis., Ch. 82, Sec. 4, Subsec. (b), as amended.)

§ 22.034. Commission Rules, Etc.

(a) The commission shall adopt rules, regulations, and procedures reasonably required for the performance of its powers, duties, and functions under this chapter, including rules for notice and procedure of public hearings. (57th Legis., Ch. 82, Sec. 4, Subsec. (a), sen. 2 (part), and Sec. 5, sen. 9, as amended.)

(b) Copies of any rules or regulations under this chapter proposed by the commission shall, before their adoption, be sent to the Texas Water Quality Board, the Texas Water Development Board, the State Department of Health, the Texas Water Well Drillers Board, and any other persons the commission may designate. Any agency or person to whom the copies of proposed rules and regulations are sent may submit comments and recommendations to the commission, and shall have reasonable time to do so as the commission may prescribe. (57th Legis., Ch. 82, Sec. 5, sen. 10, 11, as amended.)

[Sections 22.035–22.050 reserved for expansion]

**SUBCHAPTER D. ISSUANCE OF PERMITS:
TERMS AND CONDITIONS****Section 22.051. Issuance of Permit**

(a) The board or commission may grant an application in whole or in part and may issue the permit if it finds:

(1) that the installation of the disposal well is in the public interest;

(2) that no existing rights will be impaired; and

(3) that, with proper safeguards, both ground and surface fresh water can be adequately protected from pollution.

(b) In the permit the board or commission shall impose terms and conditions reasonably necessary to protect fresh water from pollution, including the necessary casing. (57th Legis., Ch. 82, Sec. 5, sen. 1, 2, as amended.)

§ 22.052. Copies of Permit; Filing Requirements

(a) The board shall furnish the commission, the Texas Water Development Board, the State Department of Health, and the Texas Water Well Drillers Board with a copy of each permit the board issues. The commission shall furnish the board with a copy of each permit the commission issues and the board shall in turn forward copies to the Texas Water Development Board, the State Department of Health, and the Texas Water Well Drillers Board. (57th Legis., Ch. 82, Sec. 5, sen. 7, 8, as amended.)

(b) Before beginning injection operations, a person receiving a permit to inject industrial and municipal waste shall file a copy of the permit with the health authorities of the county, city, and town where the well is located. (57th Legis., Ch. 82, Sec. 6, as amended.)

§ 22.053. Record of Strata

The board or commission may require a person receiving a permit under this chapter to keep and furnish a complete and accurate record of the depth, thickness, and character of the different strata penetrated in drilling the disposal well. (57th Legis., Ch. 82, Sec. 5, sen. 5, as amended.)

§ 22.054. Electric or Drilling Log

If an existing well is to be converted to a disposal well, the board or commission may require the applicant to furnish an electric log or a drilling log of the existing well. (57th Legis., Ch. 82, Sec. 5, sen. 6, as amended.)

§ 22.055. Casing Requirements

The casing shall be set at the depth, with the materials, and in the manner required by the board or commission. (57th Legis., Ch. 82, Sec. 5, sen. 3, as amended.)

§ 22.056. Factors in Setting Casing Depth

Before setting the depth to which casing shall be installed, the board or commission shall consider:

(1) known geological and hydrological conditions and relationships;

- (2) foreseeable future economic development in the area; and
- (3) foreseeable future demand for the use of fresh water in the locality. (57th Legis., Ch. 82, Sec. 5, sen. 4, as amended.)

[Sections 22.057–22.100 reserved for expansion]

SUBCHAPTER E. CIVIL AND CRIMINAL REMEDIES

Section 22.101. Civil Penalty

(a) A person who violates any provision of this chapter, any rule or regulation of the board or the commission made under this chapter, or any term, condition, or provision of a permit issued under this chapter shall be subject to a civil penalty in any sum not exceeding \$1,000 for each day of noncompliance and for each act of noncompliance. (57th Legis., Ch. 82, Sec. 7, sen. 1, as amended.)

(b) The action may be brought by the board or the commission in any court of competent jurisdiction in the county where the offending activity is occurring or where the defendant resides. (57th Legis., Ch. 82, Sec. 7, sen. 2, as amended.)

§ 22.102. Injunction, Etc.

The board or commission may enforce any valid rule or regulation made under this chapter, or any term or condition of a permit issued by the board or commission under this chapter, by injunction or other appropriate remedy. The suit shall be brought in a court of competent jurisdiction in the county where the offending activity is occurring. (57th Legis., Ch. 82, Sec. 7, sen. 3, as amended.)

§ 22.103. Procedure

(a) At the request of the board or commission, the attorney general shall institute and conduct a suit in the name of the State of Texas for injunctive relief or to recover the civil penalty, or for both the injunctive relief and civil penalty, authorized in Sections 22.101 and 22.102 of this chapter. (57th Legis., Ch. 82, Sec. 7, sen. 4, as amended.)

(b) Any party to a suit may appeal from a final judgment as in other civil cases. (57th Legis., Ch. 82, Sec. 7, sen. 5, as amended.)

§ 22.104. Effect of Permit on Civil Liability

The fact that a person has a permit issued under this chapter does not relieve him from any civil liability. (57th Legis., Ch. 82, Sec. 7, sen. 6, as amended.)

CHAPTER 23. WATER WELLS**Section 23.001. Definition**

In this chapter, "commission" means the Texas Water Rights Commission. (New.)

§ 23.002. Underground Water: Regulations

The commission shall make and enforce rules and regulations for conserving, protecting, preserving, and distributing underground, subterranean, and percolating water located in this state, and shall do all other things necessary for these purposes. (42nd Legis., Ch. 261, Sec. 1, Sec. 4, and Sec. 6, sen. 1.)

§ 23.003. Certain Wells to be Plugged or Cased

The owner of a water well which encounters salt water or water containing mineral or other substances injurious to vegetation or agriculture shall securely plug or case the well in a manner that will effectively prevent the water from escaping from the stratum in which it is found into another water-bearing stratum or onto the surface of the ground. (42nd Legis., Ch. 261, Sec. 2.)

§ 23.004. Penalty

If the owner of a well that is required to be cased or plugged by this chapter fails or refuses to case or plug the well within the 30-day period following the date of the commission's order to do so, or if a person fails to comply with any other order issued by the commission under this chapter within the 30-day period following the date of the order, he is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$10 nor more than \$500; and he commits a separate offense each day the failure or refusal continues after the 30-day period. (42nd Legis., Ch. 261, Sec. 5, and Sec. 6, sen. 2.)

CHAPTER 24. SALT WATER HAULERS**SUBCHAPTER A. GENERAL PROVISIONS****Section 24.001. Short Title**

This chapter may be cited as the Salt Water Haulers Act. (60th Legis., Ch. 355, Sec. 1.)

§ 24.002. Definitions

In this chapter, unless the context requires a different definition,

(1) "person" means an individual, association of individuals, partnership, corporation, receiver, trustee, guardian, executor, or a fiduciary or representative of any kind;

(2) "commission" means the Railroad Commission of Texas;

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(3) "salt water" means water containing salt or other mineralized substances produced by drilling an oil or gas well or produced in connection with the operation of an oil or gas well; and

(4) "hauler" means a person who transports salt water for hire by any method other than by pipeline. (60th Legis., Ch. 355, Sec. 2.)

[Sections 24.003–24.010 reserved for expansion]

SUBCHAPTER B. PERMITS

Section 24.011. Application for Permit

Any person may apply to the commission for a permit to haul and dispose of salt water. (60th Legis., Ch. 355, Sec. 3(a).)

§ 24.012. Application Form

The commission shall prescribe a form on which an application for a permit may be made and shall provide the form to any person who wishes to submit an application. (60th Legis., Ch. 355, Sec. 4(a).)

§ 24.013. Contents of Application

The application for a permit shall:

(1) state the number of vehicles the applicant plans to use for salt water hauling;

(2) affirmatively show that the vehicles are designed so that they will not leak during transportation of salt water;

(3) include an affidavit from a person who operates an approved system of salt water disposal stating that the applicant has permission to use the approved system;

(4) state the applicant's name, business address, and permanent mailing address; and

(5) include other relevant information required by commission rules. (60th Legis., Ch. 355, Sec. 3(b).)

§ 24.014. Rejecting an Application

If an application for a permit does not comply with Section 24.013 of this code or with reasonable rules of the commission, the commission may reject the application. (60th Legis., Ch. 355, Sec. 4(b).)

§ 24.015. Bond

Before issuing a permit to a person whose application it has approved, the commission shall require the person to file with it a bond in the amount of \$5,000, guaranteed by a corporate surety company and conditioned on the payment of full damages to any person who may acquire a judgment against the permittee for damages done to the person's property by the permittee's improper hauling, handling, or disposal of salt water. However, the commission may dispense with the bond requirement on a proper showing of financial responsibility. (60th Legis., Ch. 355, Sec. 3(c).)

§ 24.016. Expiration of Permit

Permits issued under this chapter expire on August 31 of each year. (60th Legis., Ch. 355, Sec. 3(d), sen. 1.)

§ 24.017. Renewal of Permit

A permittee may apply to renew his permit by submitting an application for renewal on or before August 31 of each year. (60th Legis., Ch. 355, Sec. 3(d), sen. 2.)

§ 24.018. Suspension; Refusal to Renew

The commission shall suspend or shall refuse to renew a permit for a period of six months if the permittee:

- (1) violates the provisions of this chapter;
- (2) violates reasonable rules promulgated under Section 24.031 of this code; or
- (3) does not maintain his operation at the standards that entitled him to a permit under Section 24.013 of this code. (60th Legis., Ch. 355, Sec. 4(d).)

§ 24.019. Appeal

Any person whose permit application is refused, whose permit is suspended, or whose application for permit renewal is refused by the commission may file a petition in an action to set aside the commission's act within the 30-day period immediately following the day he receives notice of the commission's action. (60th Legis., Ch. 355, Sec. 5(a).)

§ 24.020. Suit to Compel Commission to Act

If the commission does not act within a reasonable time after a person applies for a permit or for renewal of a permit, the applicant may notify the commission of his intention to file suit; and after 10 days have elapsed since the day the notice was given, the applicant may file a petition in an action to compel the commission to show cause why it should not be directed by the court to take immediate action. (60th Legis., Ch. 355, Sec. 5(b).)

§ 24.021. Venue

The venue in actions under Sections 24.019 and 24.020 of this code is fixed exclusively in the district courts of Travis County. (60th Legis., Ch. 355, Sec. 5(c).)

[Sections 24.022-24.030 reserved for expansion]

SUBCHAPTER C. RULES**Section 24.031. Rule-making Power**

The commission shall adopt rules to effectuate the provisions of this chapter. (60th Legis., Ch. 355, Sec. 4(c), sen. 1.)

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§ 24.032. Copies of Rules

The commission shall print the rules and provide copies to persons who apply for them. (60th Legis., Ch. 355, Sec. 4(c), sen. 2.)

§ 24.033. Effective Date of Rules

No rule or amendment to a rule is effective until after the 30-day period immediately following the day on which a copy of the rule is filed with the secretary of state. (60th Legis., Ch. 355, Sec. 4(c), sen. 3.)

[Sections 24.034–24.040 reserved for expansion]

SUBCHAPTER D. OFFENSES; PENALTIES

Section 24.041. Hauling without Permit

No hauler may haul and dispose of salt water off the lease, unit, or other oil or gas property where it is produced unless the hauler has a permit issued under this chapter. (60th Legis., Ch. 355, Sec. 6.)

§ 24.042. Exception

A person may haul salt water for use in connection with drilling or servicing an oil or gas well without obtaining a hauler's permit under this chapter. (60th Legis., Ch. 355, Sec. 10.)

§ 24.043. Using Haulers without Permit

No person may knowingly utilize the services of a hauler to haul and dispose of salt water off the lease, unit, or other oil or gas property where it is produced if the hauler does not have a permit as required under this chapter. (60th Legis., Ch. 355, Sec. 7.)

§ 24.044. Disposing of Salt Water

(a) No hauler may dispose of salt water on public roads or on the surface of public land or private property in this state in other than a commission-approved disposal pit without written authority from the commission.

(b) No hauler may dispose of salt water on property of another without the written authority of the landowner. (60th Legis., Ch. 355, Sec. 8.)

§ 24.045. Use of Unmarked Vehicles

No person who is required to have a permit under this chapter may haul salt water in a vehicle that does not bear the owner's name and the hauler's permit number. This information shall appear on both sides and the rear of the vehicle in characters not less than three inches high. (60th Legis., Ch. 355, Sec. 9.)

§ 24.046. Penalty

A person who violates any provision of this chapter is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$100 nor more than \$1,000 or by confinement in the county jail for not more than 10 days or by both. (60th Legis., Ch. 355, Sec. 11.)

CHAPTER 25. REGIONAL WASTE DISPOSAL**SUBCHAPTER A. GENERAL PROVISIONS****Section 25.001. Short Title**

This chapter may be cited as the Regional Waste Disposal Act. (60th Legis., Ch. 97, Sec. 1, sen. 2.)

§ 25.002. Purpose

The purpose of this chapter is to authorize public agencies to cooperate for the safe and economical collection, transportation, treatment, and disposal of waste in order to prevent and control pollution of water in the state. (60th Legis., Ch. 97, Sec. 1, sen. 1.)

§ 25.003. Definitions

In this chapter:

(1) "City" means any incorporated city or town, whether operating under general law or under its home-rule charter.

(2) "District" means any district or authority created and existing under Article XVI, Section 59, or Article III, Section 52, of the Texas Constitution, including any river authority.

(3) "Public agency" means any district, city, or other political subdivision or agency of the state which has the power to own and operate waste collection, transportation, treatment or disposal facilities or systems, and any joint board created under the provisions of Section 14, Chapter 114, Acts of the 50th Legislature (Article 46d—14, Vernon's Texas Civil Statutes).

(4) "River authority" means any district or authority created by the legislature, which contains an area within its boundaries of one or more counties, and which is governed by a board of directors appointed or designated in whole or in part by the governor, or by the Texas Water Rights Commission, including without limitation the San Antonio River Authority.

(5) "River basins" and "coastal basins" mean the river basins and coastal basins now defined and designated by the Texas Water Development Board as separate units for the purposes of water development and inter-watershed transfers, and as they are made certain by contour maps on file in the offices of the Texas Water Development Board, including, but not limited to, the rivers and their tributaries, streams, water, coastal water, sounds, estuaries, bays, lakes, and portions of them, as well as the lands drained by them.

(6) "Waste" means sewage, industrial waste, municipal waste, recreational waste, agricultural waste, waste heat, or other waste that may cause impairment of the quality of water in the state.

(7) The terms "sewage," "municipal waste," "recreational waste," "agricultural waste," "industrial waste," "other waste," "pollution," "water," or "water in the state," and "local government" shall have the meanings defined in the Texas Water Quality Act, codified in Chapter 21 of this code.

(8) "Sewer system" means pipelines, conduits, canals, pumping stations, force mains, and all other constructions, devices, and appurtenant appliances used to transport waste.

(9) "Treatment facility" means any plant, disposal field, lagoon, canal, incinerator, area devoted to sanitary landfills, or other facility installed for the purpose of treating, neutralizing, or stabilizing waste or facilities to provide cooling water to collect, control and dispose of waste.

(10) "Disposal system" means any system for disposing of waste, including sewer systems and treatment facilities. (60th Legis., Ch. 97, Sec. 2, as amended.)

§ 25.004. Cumulative Effect of Chapter

(a) This chapter is cumulative of other statutes governing the Texas Water Quality Board, the State Department of Health, and the Texas Water Rights Commission relating to:

- (1) the issuance of bonds;
- (2) the collection, transportation, treatment, or disposal of waste; and
- (3) the design, construction, acquisition, or approval of facilities for these purposes. (60th Legis., Ch. 97, Sec. 16.)

(b) The powers granted to districts and public agencies by this chapter are additional to and cumulative of the powers granted by other laws. This chapter is full authority for any district or public agency to enter into contracts authorized by it and for any district to authorize and issue bonds under its provisions without reference to the provisions of any other law or charter. No other law or charter provision which limits, restricts, or imposes additional requirements on matters authorized by this chapter shall apply to any action or proceeding under this chapter unless expressly provided to the contrary in this chapter. (60th Legis., Ch. 97, Sec. 17, sen. 1 (part), 2, 3, as amended.)

§ 25.005. Construction of Chapter

The terms and provisions of this chapter shall be liberally construed to accomplish its purposes. (60th Legis., Ch. 97, Sec. 17, sen. 1 (part), as amended.)

[Sections 25.006–25.020 reserved for expansion]

SUBCHAPTER B. REGIONAL WASTE DISPOSAL SYSTEMS

Section 25.021. Disposal System

A district may acquire, construct, improve, enlarge, extend, repair, operate, and maintain one or more disposal systems. (60th Legis., Ch. 97, Sec. 3, sen. 1 (part), as amended.)

§ 25.022. Purchase and Sale of Facilities

A district may contract with any person to purchase or sell, by installments over such term as considered desirable, any waste collection, transportation, treatment, or disposal facilities or systems. (60th Legis., Ch. 97, Sec. 3, sen. 2, as amended.)

§ 25.023. Lease of Facilities

A district may lease to or from any person, for such term and on such conditions as may be considered desirable, any waste collection, transportation, treatment, or disposal facilities or systems. (60th Legis., Ch. 97, Sec. 3, sen. 3 (part), as amended.)

§ 25.024. Operating Agreements

A district may make operating agreements with any person, for such terms and on such conditions as may be considered desirable, for the operation of any waste collection, transportation, treatment, or disposal facilities or systems of any person by the district. (60th Legis., Ch. 97, Sec. 3, sen. 3 (part), as amended.)

§ 25.025. Waste Disposal Contracts by District

A district may make contracts with any person, including any public agency located inside or outside the boundaries of the district, under which the district will collect, transport, treat, or dispose of waste for the person. (60th Legis., Ch. 97, Sec. 3, sen. 1 (part), as amended.)

§ 25.026. Contracts by River Authority

Each river authority may make contracts authorized by this chapter with any person, including any public agency situated wholly or partly inside its boundaries and any public agency situated wholly or partly inside the river basin and any public agency situated wholly or partly inside the coastal basins adjoining its boundaries, but a river authority may not make contracts to serve a public agency situated wholly inside the boundaries of another river authority or to serve facilities of a person situated wholly within the boundaries of another river authority, except with the consent of the other river authority. (60th Legis., Ch. 97, Sec. 4a, as added.)

§ 25.027. Contract with Public Agency

A public agency may make contracts with a district under which the district will make a disposal system available to the public agency and will furnish waste collection, transportation, treatment, and disposal services to the public agency, group of public agencies, or other persons through the district's disposal system. (60th Legis., Ch. 97, Sec. 5, sen. 1, as amended.)

§ 25.028. Contract Provisions

(a) The contract may provide for:

- (1) duration of the contract for a specified period or until issued and unissued bonds and refunding bonds of the district are paid;
- (2) assuring equitable treatment of parties who contract with the district for waste collection, transportation, treatment, and disposal services from the same disposal system;
- (3) requiring the public agency to regulate the quality and strength of waste to be handled by the disposal system;
- (4) sale or lease to or use by a district of all or part of a disposal system owned or to be acquired by the public agency;
- (5) the district operating all or part of a disposal system owned or to be acquired by the public agency; and

(6) other terms the district or the governing body of the public agency consider appropriate or necessary. (60th Legis., Ch. 97, Sec. 5, sen. 2 (part), as amended.)

(b) The contract shall specify the method for determining the amounts to be paid by the public agency to the district. (60th Legis., Ch. 97, Sec. 5, sen. 2 (part), as amended.)

(c) A contract made by a city may provide that the district shall have the right to use the streets, alleys, and public ways and places inside the city during the term of the contract. (60th Legis., Ch. 97, Sec. 5, sen. 3, as amended.)

§ 25.029. Continued Use of District Facilities

After amortization of the district's investment in the disposal system, the public agency is entitled to continued performance of the service during the useful life of the disposal system, on payment of reasonable charges reduced to take into consideration the amortization. (60th Legis., Ch. 97, Sec. 5, sen. 2 (part), as amended.)

§ 25.030. Source of Contract Payments

(a) A public agency may pay for the waste collection, transportation, treatment, and disposal services with income from its waterworks system, sanitary sewer system, or both systems, or its combined water and sanitary sewer system, as prescribed by the contract. In the alternative, a joint board defined as a public agency in Section 25.003, Subdivision (3), may pay for these services from any revenue or other funds within its control specified in the contract if the city councils of the cities which created the joint board approve, by ordinance, the contract between the joint board and the district. These payments constitute an operating expense of each system whose revenue is so used. (60th Legis., Ch. 97, Sec. 6, sen. 1, 2, 3, as amended.)

(b) The obligation of contract payments on the income of the public agency's water system is subordinate to the obligation imposed by any bonds that are payable solely from the water system net revenue and that are outstanding at the time the contract is made, unless the ordinance or resolution authorizing the bonds expressly reserved the right to give the contract payments a priority over the bond requirements. (60th Legis., Ch. 97, Sec. 6, sen. 4, as amended.)

(c) If a public agency having taxing power holds an election substantially according to the applicable provisions of Chapter 1, Title 22, Revised Civil Statutes of Texas, 1925, as amended, relating to the issuance of bonds by cities, and it is determined that the public agency is authorized to levy an ad valorem tax to make all or part of the payments under a contract with a district, then the contract is an obligation against the taxing power of the public agency to the extent authorized, and payments under the contract may be payable from and constitute solely an obligation against the taxing powers of the city or may be payable both from taxes and from revenue prescribed in the contract. Otherwise, neither the district nor the holders of the district's bonds are entitled to demand payment of the public agency's obligation out of any tax revenue. (60th Legis., Ch. 97, Sec. 6, sen. 5, 6, as amended, and Sec. 7(a), sen. 1.)

§ 25.031. Rates

(a) When all or part of the payments under a contract are to be made from revenue of the waterworks system, sanitary sewer system, both sys-

tems, or a combination of both systems, the public agency shall establish, maintain, and periodically adjust the rates charged for services of the systems, so that the revenue, along with any taxes levied in support of the indebtedness, will be sufficient to pay:

- (1) the expenses of operating and maintaining the systems;
 - (2) the obligations to the district under the contract; and
 - (3) the obligations of bonds that are secured by revenue of the systems. (60th Legis., Ch. 97, Sec. 8, sen. 1.)
- (b) The contract may require the use of consulting engineers and financial experts to advise the public agency on the need for adjusting rates. (60th Legis., Ch. 97, Sec. 8, sen. 2.)

§ 25.032. Service to more than One Public Agency

A contract or group of contracts may provide for the district to render services concurrently to more than one person through constructing and operating a disposal system and may provide that the cost of these services be allocated among the persons as provided in the contract or group of contracts. (60th Legis., Ch. 97, Sec. 9, as amended.)

§ 25.033. Property Acquired by Condemnation or Otherwise

(a) To accomplish the purposes of this chapter, a district may acquire by purchase, lease, gift or in any other manner all or any interest in property inside or outside the boundaries of the district and may own, maintain, use, and operate it. (60th Legis., Ch. 97, Sec. 4, sen. 1, as amended.)

(b) To accomplish the purposes of the chapter, a district may exercise the power of eminent domain to acquire all or any interest in property inside or outside the boundaries of the district. The power shall be exercised according to the laws applicable or available to the district. (60th Legis., Ch. 97, Sec. 4, sen. 2, 3, as amended.)

§ 25.034. Cost of Relocating, Altering, Etc.

If a district makes necessary the relocating, raising, rerouting, changing the grade of, or altering the construction of any highway, railroad, electric transmission line, pipeline, or telephone or telegraph properties or facilities in the exercise of powers granted under this chapter, the district shall pay all of the actual cost of the relocating, raising, rerouting, changing in grade, or altering of construction, and shall pay all of the actual cost of providing comparable replacement of facilities without enhancement, less the net salvage value of the facilities. (60th Legis., Ch. 97, Sec. 15.)

§ 25.035. Elections

No election is required for the exercise of any power under this chapter except for the tax levy as provided by Section 25.030(c) of this code. (60th Legis., Ch. 97, Sec. 7(a), sen. 2.)

[Sections 25.036–25.050 reserved for expansion]

SUBCHAPTER C. DISTRICT REVENUE BONDS

Section 25.051. Issuance of Bonds

In order to acquire, construct, improve, enlarge, extend, or repair disposal systems, the district may issue bonds secured by a pledge of all or

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part of the revenue from any contract entered into under this chapter and other income of the district. (60th Legis., Ch. 97, Sec. 10, sen. 1, as amended.)

§ 25.052. Form, Denomination, Interest Rate

The governing body of the district shall prescribe the form, denomination, and rate of interest for the bonds. (60th Legis., Ch. 97, Sec. 10, sen. 2 (part), as amended.)

§ 25.053. Refunding Bonds

A district may refund any bonds issued under this chapter on the terms and conditions and at the rate of interest the governing body prescribes. (60th Legis., Ch. 97, Sec. 10, sen. 3, as amended.)

§ 25.054. Sale or Exchange of Bonds

A district may sell bonds issued under this chapter at public or private sale at the price or prices and on the terms determined by the governing body, or it may exchange the bonds for property or any interest in property of any kind considered necessary or convenient to the purposes authorized in this chapter. (60th Legis., Ch. 97, Sec. 10, sen. 4, as amended.)

§ 25.055. Interim Bonds

Pending the issuance of definitive bonds, a district may issue negotiable interim bonds or obligations eligible for exchange or substitution by use of definitive bonds. (60th Legis., Ch. 97, Sec. 10, sen. 5, as amended.)

§ 25.056. Attorney General's Examination

(a) After issuance of the bonds is authorized, the bonds and the record relating to their issuance may be submitted to the attorney general for examination. (60th Legis., Ch. 97, Sec. 12, sen. 1.)

(b) When the bonds recite that they are secured by a pledge of the proceeds from a contract between the district and a public agency, a copy of the contract and the proceedings of the public agency authorizing the contract may also be submitted to the attorney general. (60th Legis., Ch. 97, Sec. 12, sen. 2.)

(c) If the attorney general finds that the bonds are authorized and that the contract is made in accordance with the constitution and laws of this state, he shall approve the bonds and the contract. (60th Legis., Ch. 97, Sec. 12, sen. 3 (part).)

§ 25.057. Registration by Comptroller

After the bonds have been approved by the attorney general, they shall be registered by the state comptroller. (60th Legis., Ch. 97, Sec. 12, sen. 3 (part).)

§ 25.058. Validation Suit

(a) Instead of, or in addition to, obtaining the approval of the attorney general, the district may have the bonds validated by suit in the district court as provided in Chapter 316, Acts of the 56th Legislature, Regular Session, 1959 (Article 717m, Vernon's Texas Civil Statutes). (60th Legis., Ch. 97, Sec. 12, sen. 5.)

(b) The governing body of the district may wait until after termination of the validation suit to fix the interest rate and sale price of the bonds. (60th Legis., Ch. 97, Sec. 12, sen. 6.)

(c) If the proposed bonds recite that they are secured by the proceeds of a contract between the district and a public agency, the petition shall so allege; and the notice of the suit shall mention this allegation and shall specify the public agency's funds or revenues from which the contract payments are to be made. (60th Legis., Ch. 97, Sec. 12, sen. 7.)

§ 25.059. Bonds Incontestable

After the bonds are approved by the attorney general and registered with the comptroller, the bonds and the contract are incontestable. (60th Legis., Ch. 97, Sec. 12, sen. 4.)

§ 25.060. Negotiable Instruments

Bonds issued under this subchapter are negotiable instruments. (60th Legis., Ch. 97, Sec. 10, sen. 2.)

§ 25.061. Investment Securities under Uniform Commercial Code

Bonds issued under this subchapter are investment securities governed by Chapter 8, Uniform Commercial Code. (60th Legis., Ch. 97, Sec. 10, sen. 2 (part), as amended.)

§ 25.062. Bonds as Authorized Investments

Bonds issued under this chapter are legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, and trustees, and for the sinking funds of cities, towns, villages, school districts, and other political corporations or subdivisions of the state. (60th Legis., Ch. 97, Sec. 14, sen. 1.)

§ 25.063. Security for Deposits

The bonds are eligible to secure deposits of any public funds of the state or any political subdivision of the state, and are lawful and sufficient security for the deposits to the extent of their value when accompanied by unmatured coupons attached to the bonds. (60th Legis., Ch. 97, Sec. 14, sen. 2.)

§ 25.064. Funds Set Aside from Bond Proceeds

The district may set aside out of the proceeds from the sale of bonds:

- (1) interest to accrue on the bonds and administrative expenses to the estimated date when the disposal system will become revenue-producing; and
 - (2) reserve funds created by the resolution authorizing the bonds.
- (60th Legis., Ch. 97, Sec. 11, sen. 2.)

§ 25.065. Investment of Proceeds

Pending their use, proceeds from the sale of bonds may be invested in securities or time deposits as specified in the resolution authorizing the issuance of the bonds or the trust indenture securing the bonds. The earnings on these investments shall be applied as provided in the resolution or trust indenture. (60th Legis., Ch. 97, Sec. 13.)

§ 25.066. Rates and Charges

While any bonds are outstanding, the governing body of the district shall fix, maintain, and collect, for services furnished or made available by the disposal system, rates and charges adequate to:

- (1) pay maintenance and operating costs of and expenses allocable to the disposal system;
- (2) pay the principal of and interest on the bonds; and
- (3) provide and maintain the funds created by the resolution authorizing the bonds. (60th Legis., Ch. 97, Sec. 11, sen. 1.)

[Sections 25.067–25.100 reserved for expansion]

SUBCHAPTER D. RIVER AUTHORITY PLANNING

Section 25.101. Authorization of Regional Plans

Each river authority may prepare regional plans for water quality management, control, and abatement of pollution in any segment of its river basin and adjoining coastal basins which:

- (1) are consistent with any applicable water quality standards established under current law within the river basin;
- (2) recommend disposal systems which will provide the most effective and economical means of collection, storage, treatment, and purification of waste, and means to encourage rural, municipal, and industrial use of the works and systems; and
- (3) recommend maintenance and improvement of water quality standards within the river basin and methods of adequately financing the facilities necessary to implement the plan. (60th Legis., Ch. 97, Sec. 2a, sen. 1, as added.)

§ 25.102. Planning in Related Fields

River authorities may conduct planning in related or affected fields reasonably necessary to give meaning to the water quality management and pollution control planning carried out under this subchapter. (60th Legis., Ch. 97, Sec. 2a, sen. 2, as added.)

§ 25.103. Joint Planning

(a) River authorities may join in the performance of planning functions with any district or public agency and enter into planning agreements for the term and on the conditions considered desirable to provide coordinated planning on a basin-wide scale, including adjacent coastal basins. (60th Legis., Ch. 97, Sec. 2a, sen. 3 (part), as added.)

(b) River authorities may provide for river basin planning committees as entities with powers, responsibilities, functions, and duties conferred by mutual agreement. (60th Legis., Ch. 97, Sec. 2a, sen. 3 (part), as added.)

§ 25.104. Coordination with Other Planning Agencies

A river authority performing planning functions under this subchapter shall coordinate its efforts and cooperate with other public planning agencies having significant planning interests in any segment of the river basin in or for which the planning is being conducted by the river authority. (60th Legis., Ch. 97, Sec. 2a, sen. 4, as added.)

§ 25.105. Financial Assistance

River authorities may make applications and enter into contracts for financial assistance in comprehensive planning which are appropriate under Section 3(c) of the Federal Water Pollution Control Act, under 33 U.S.C., Sec. 1926, et seq., under 40 U.S.C., Sec. 461, et seq., and under any other relevant statutes. (60th Legis., Ch. 97, Sec. 2a, sen. 5, as added.)

§ 25.106. Supervision by Water Quality Board

The Texas Water Quality Board is authorized to exercise continuing supervision on behalf of the state of comprehensive plans prepared under this chapter. (60th Legis., Ch. 97, Sec. 2a, sen. 6, as added.)

TITLE 3. RIVER COMPACTS**CHAPTER 41. RIO GRANDE COMPACT****Section 41.001. Ratification**

The Rio Grande Compact, the text of which is set out in Section 41.009 of this code, was ratified by the legislature of this state in Chapter 3, page 531, Special Laws, Acts of the 46th Legislature, 1939, after having been signed at Santa Fe, New Mexico, on March 18, 1938, by M. C. Hinderlider, commissioner for the State of Colorado, Thos. M. McClure, commissioner for the State of New Mexico, and Frank B. Clayton, commissioner for the State of Texas, and approved by S. O. Harper, commissioner representing the United States. (46th Legis., Sp.L., Ch. 3, p. 531, Sec. 1 (part).)

§ 41.002. Original Copy

An original copy of the compact is on file in the office of the secretary of state. (46th Legis., Sp.L., Ch. 3, p. 531, Sec. 1 (part).)

§ 41.003. Commissioner

The governor, with the advice and consent of the senate, shall appoint a commissioner to represent this state on the commission established by Article XII of the compact. (46th Legis., Sp.L., Ch. 3, p. 531, Sec. 2, sen. 1 (part).)

§ 41.004. Term of Office

The commissioner holds office for a term of two years and until his successor is appointed and has qualified. (46th Legis., Sp.L., Ch. 3, p. 531, Sec. 2, sen. 2.)

§ 41.005. Oath

The commissioner shall take the constitutional oath of office and shall also take an oath to faithfully perform his duties as commissioner. (46th Legis., Sp.L., Ch. 3, p. 531, Sec. 2, sen. 3.)

§ 41.006. Compensation; Expenses

The commissioner is entitled to compensation as provided by legislative appropriation. On submission of detailed, sworn accounts, he is entitled

to reimbursement for actual expenses incurred while traveling in the discharge of his duties. (46th Legis., Sp.L., Ch. 3, p. 531, Sec. 2, sen. 4, 5.)

§ 41.007. Employees; Administrative Expenses

The commissioner, in conjunction with the other members of the commission and as authorized by legislative appropriation, may employ engineering and clerical personnel and may incur necessary office expenses and other expenses incident to the proper performance of his duties and the proper administration of the compact. However, the commissioner shall not incur any financial obligation on behalf of this state until the legislature has authorized and appropriated money for the obligation. (46th Legis., Sp.L., Ch. 3, p. 531, Sec. 2, sen. 6, 7.)

§ 41.008. Powers and Duties

The commissioner is responsible for administering the provisions of the compact, and he has all the powers and duties prescribed by the compact. (46th Legis., Sp.L., Ch. 3, p. 531, Sec. 2, sen. 1 (part).)

§ 41.009. Text of Compact

The Rio Grande Compact reads as follows :

RIO GRANDE COMPACT

The State of Colorado, the State of New Mexico, and the State of Texas, desiring to remove all causes of present and future controversy among these States and between citizens of one of these States and citizens of another State with respect to the use of the waters of the Rio Grande above Fort Quitman, Texas, and being moved by considerations of interstate comity, and for the purpose of effecting an equitable apportionment of such waters, have resolved to conclude a Compact for the attainment of these purposes, and to that end, through their respective Governors, have named as their respective Commissioners:

For the State of Colorado—M. C. Hinderlider

For the State of New Mexico—Thomas M. McClure

For the State of Texas—Frank B. Clayton

who, after negotiations participated in by S. O. Harper, appointed by the President as the representative of the United States of America, have agreed upon the following Articles, to wit:

ARTICLE I

(a) The State of Colorado, the State of New Mexico, the State of Texas, and the United States of America, are hereinafter designated "Colorado," "New Mexico," "Texas," and the "United States," respectively.

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

(c) The term "Rio Grande Basin" means all of the territory drained by the Rio Grande and its tributaries in Colorado, in New Mexico, and in Texas above Fort Quitman, including the Closed Basin in Colorado.

(d) The "Closed Basin" means that part of the Rio Grande Basin in Colorado where the streams drain into the San Luis Lakes and adjacent territory, and do not normally contribute to the flow of the Rio Grande.

(e) The term "tributary" means any stream which naturally contributes to the flow of the Rio Grande.

(f) "Transmountain Diversion" is water imported into the drainage basin of the Rio Grande from any stream system outside of the Rio Grande Basin, exclusive of the Closed Basin.

(g) "Annual Debits" are the amounts by which actual deliveries in any calendar year fall below scheduled deliveries.

(h) "Annual Credits" are the amounts by which actual deliveries in any calendar year exceed scheduled deliveries.

(i) "Accrued Debits" are the amounts by which the sum of all annual debits exceeds the sum of all annual credits over any common period of time.

(j) "Accrued Credits" are the amounts by which the sum of all annual credits exceeds the sum of all annual debits over any common period of time.

(k) "Project Storage" is the combined capacity of Elephant Butte Reservoir and all other reservoirs actually available for the storage of usable water below Elephant Butte and above the first diversion to lands of the Rio Grande Project, but not more than a total of two million, six hundred and thirty-eight thousand, eight hundred and sixty (2,638,860) acre-feet.

(l) "Usable Water" is all water, exclusive of credit water, which is in project storage and which is available for release in accordance with irrigation demands, including deliveries to Mexico.

(m) "Credit Water" is that amount of water in project storage which is equal to the accrued credit of Colorado or New Mexico or both.

(n) "Unfilled Capacity" is the difference between the total physical capacity of project storage and the amount of usable water then in storage.

(o) "Actual Release" is the amount of usable water released in any calendar year from the lowest reservoir comprising project storage.

(p) "Actual Spill" is all water which is actually spilled from Elephant Butte Reservoir, or is released therefrom for flood control, in excess of the current demand on project storage and which does not become usable water by storage in another reservoir; provided, that actual spill of usable water cannot occur until all credit water shall have been spilled.

(q) "Hypothetical Spill" is the time in any year at which usable water would have spilled from project storage if seven hundred and ninety thousand (790,000) acre-feet had been released therefrom at rates proportional to the actual release in every year from the starting date to the end of the year in which hypothetical spill occurs; in computing hypothetical spill the initial condition shall be the amount of usable water in project storage at the beginning of the calendar year following the effective date of this Compact, and thereafter the initial condition shall be the amount of usable water in project storage at the beginning of the calendar year following each actual spill.

ARTICLE II

The Commission shall cause to be maintained and operated a stream gaging station equipped with an automatic water stage recorder at each of the following points, to wit:

(a) On the Rio Grande near Del Norte above the principal points of diversion to the San Luis Valley;

(b) On the Conejos River near Mogote;

- (c) On the Los Pinos River near Ortiz;
- (d) On the San Antonio River at Ortiz;
- (e) On the Conejos River at its mouths near Los Sauces;
- (f) On the Rio Grande near Lobatos;
- (g) On the Rio Chama below El Vado Reservoir;
- (h) On the Rio Grande at Otowi Bridge near San Ildefonso;
- (i) On the Rio Grande near San Acacia;
- (j) On the Rio Grande at San Marcial;
- (k) On the Rio Grande below Elephant Butte Reservoir;
- (l) On the Rio Grande below Caballo Reservoir.

Similar gaging stations shall be maintained and operated below any other reservoir constructed after 1929, and at such other points as may be necessary for the securing of records required for the carrying out of the Compact; and automatic water stage recorders shall be maintained and operated on each of the reservoirs mentioned, and on all others constructed after 1929.

Such gaging stations shall be equipped, maintained, and operated by the Commission directly or in cooperation with an appropriate Federal or State agency, and the equipment, method and frequency of measurement at such stations shall be such as to produce reliable records at all times.

ARTICLE III

The obligation of Colorado to deliver water in the Rio Grande at the Colorado-New Mexico State Line, measured at or near Lobatos, in each calendar year, shall be ten thousand (10,000) acre-feet less than the sum of those quantities set forth in the two (2) following tabulations of relationship, which correspond to the quantities at the upper index stations:

Discharge of Conejos River	
Quantities in thousands of acre-feet	
Conejos Index Supply (1)	Conejos River at Mouths (2)
100	0
150	20
200	45
250	75
300	109
350	147
400	188
450	232
500	278
550	326
600	376
650	426
700	476

Intermediate quantities shall be computed by proportional parts.

(1) Conejos Index Supply is the natural flow of Conejos River at the U.S.G.S. gaging station near Mogote during the calendar year, plus the natural flow of Los Pinos River at the U.S.G.S. gaging station near Ortiz

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and the natural flow of San Antonio River at the U.S.G.S. gaging station at Ortiz, both during the months of April to October, inclusive.

(2) Conejos River at mouths is the combined discharge of branches of this River at the U.S.G.S. gaging stations near Los Sauces during the calendar year.

Discharge of Rio Grande exclusive of Conejos River

Quantities in thousands of acre-feet

Rio Grande at Del Norte (3)	Rio Grande at Lobatos less Conejos at Mouths (4)
200	60
250	65
300	75
350	86
400	98
450	112
500	127
550	144
600	162
650	182
700	204
750	229
800	257
850	292
900	335
950	380
1,000	430
1,100	540
1,200	640
1,300	740
1,400	840

Intermediate quantities shall be computed by proportional parts.

(3) Rio Grande at Del Norte is the recorded flow of the Rio Grande at the U.S.G.S. gaging station near Del Norte during the calendar year (measured above all principal points of diversion to San Luis Valley) corrected for the operation of reservoirs constructed after 1937.

(4) Rio Grande at Lobatos less Conejos at mouths is the total flow of the Rio Grande at the U.S.G.S. gaging station near Lobatos, less the discharge of Conejos River at its mouths, during the calendar year.

The application of these schedules shall be subject to the provisions hereinafter set forth and appropriate adjustments shall be made for (a) any change in location of gaging station; (b) any new or increased depletion of the runoff above inflow index gaging stations; and (c) any transmountain diversions into the drainage basin of the Rio Grande above Lobatos.

In event any works are constructed after 1937 for the purpose of delivering water into the Rio Grande from the Closed Basin, Colorado shall not be credited with the amount of such water delivered, unless the proportion of sodium ions shall be less than forty-five (45) per cent of the total positive ions in that water when the total dissolved solids in such water exceeds three hundred and fifty (350) parts per million.

ARTICLE IV

The obligation of New Mexico to deliver water in the Rio Grande at San Marcial, during each calendar year, exclusive of the months of July, August, and September, shall be that quantity set forth in the following tabulation of relationship, which corresponds to the quantity at the upper index station:

Discharge of Rio Grande at Otowi Bridge and at San Marcial exclusive of July, August, and September	
Quantities in thousands of acre-feet	
Otowi Index Supply (5)	San Marcial Index Supply (6)
100	0
200	65
300	141
400	219
500	300
600	383
700	469
800	557
900	648
1000	742
1100	839
1200	939
1300	1042
1400	1148
1500	1257
1600	1370
1700	1489
1800	1608
1900	1730
2000	1856
2100	1985
2200	2117
2300	2253

Intermediate quantities shall be computed by proportional parts.

(5) The Otowi Index Supply is the recorded flow of the Rio Grande at the U.S.G.S. gaging station at Otowi Bridge near San Ildefonso (formerly station near Buckman) during the calendar year, exclusive of the flow during the months of July, August, and September, corrected for the operation of reservoirs constructed after 1929 in the drainage basin of the Rio Grande between Lobatos and Otowi Bridge.

(6) San Marcial Index Supply is the recorded flow of the Rio Grande at the gaging station at San Marcial during the calendar year exclusive of the flow during the months of July, August, and September.

The application of this schedule shall be subject to the provisions hereinafter set forth and appropriate adjustments shall be made for (a) any change in location of gaging stations; (b) depletion after 1929 in New Mexico at any time of the year of the natural runoff at Otowi Bridge; (c) depletion of the runoff during July, August, and September of tributaries between Otowi Bridge and San Marcial, by works constructed after

1937; and (d) any transmountain diversions into the Rio Grande between Lobatos and San Marcial.

Concurrent records shall be kept of the flow of the Rio Grande at San Marcial, near San Acacia, and of the release from Elephant Butte Reservoir, to the end that the records at these three (3) stations may be correlated.

ARTICLE V

If at any time it should be the unanimous finding and determination of the Commission that because of changed physical conditions, or for any other reason, reliable records are not obtainable, or cannot be obtained, at any of the stream gaging stations herein referred to, such stations may, with the unanimous approval of the Commission, be abandoned, and with such approval another station, or other stations, shall be established and new measurements shall be substituted which, in the unanimous opinion of the Commission, will result in substantially the same results, so far as the rights and obligations to deliver water are concerned, as would have existed if such substitution of stations and measurements had not been so made.

ARTICLE VI

Commencing with the year following the effective date of this Compact, all credits and debits of Colorado and New Mexico shall be computed for each calendar year; provided, that in a year of actual spill no annual credits nor annual debits shall be computed for that year.

In the case of Colorado, no annual debit nor accrued debit shall exceed one hundred thousand (100,000) acre-feet, except as either or both may be caused by holdover storage water in reservoirs constructed after 1937 in the drainage basin of the Rio Grande above Lobatos. Within the physical limitations of storage capacity in such reservoirs, Colorado shall retain water in storage at all times to the extent of its accrued debit.

In the case of New Mexico, the accrued debit shall not exceed two hundred thousand (200,000) acre-feet at any time, except as such debit may be caused by holdover storage of water in reservoirs constructed after 1929 in the drainage basin of the Rio Grande between Lobatos and San Marcial. Within the physical limitations of storage capacity in such reservoirs, New Mexico shall retain water in storage at all times to the extent of its accrued debit. In computing the magnitude of accrued credits or debits, New Mexico shall not be charged with any greater debit in any one year than the sum of one hundred and fifty thousand (150,000) acre-feet and all gains in the quantity of water in storage in such year.

The Commission by unanimous action may authorize the release from storage of any amount of water which is then being held in storage by reason of accrued debits of Colorado or New Mexico; provided, that such water shall be replaced at the first opportunity thereafter.

In computing the amount of accrued credits and accrued debits of Colorado or New Mexico, any annual credits in excess of one hundred and fifty thousand (150,000) acre-feet shall be taken as equal to that amount.

In any year in which actual spill occurs, the accrued credits of Colorado or New Mexico, or both, at the beginning of the year shall be reduced in proportion to their respective credits by the amount of such actual spill; provided, that the amount of actual spill shall be deemed to be in-

creased by the aggregate gain in the amount of water in storage, prior to the time of spill, in reservoirs above San Marcial constructed after 1929; provided, further, that if the Commissioners for the States having accrued credits authorize the release of part, or all, of such credits in advance of spill, the amount so released shall be deemed to constitute actual spill.

In any year in which there is actual spill of usable water, or at the time of hypothetical spill thereof, all accrued debits of Colorado or New Mexico, or both, at the beginning of the year shall be cancelled.

In any year in which the aggregate of accrued debits of Colorado and New Mexico exceeds the minimum unfilled capacity of project storage, such debits shall be reduced proportionally to an aggregate amount equal to such minimum unfilled capacity.

To the extent that accrued credits are impounded in reservoirs between San Marcial and Courchesne, and to the extent that accrued debits are impounded in reservoirs above San Marcial, such credits and debits shall be reduced annually to compensate for evaporation losses in the proportion that such credits or debits bore to the total amount of water in such reservoirs during the year.

ARTICLE VII

Neither Colorado nor New Mexico shall increase the amount of water in storage in reservoirs constructed after 1929 whenever there is less than four hundred thousand (400,000) acre-feet of usable water in project storage; provided, that if the actual releases of usable water from the beginning of the calendar year following the effective date of this Compact, or from the beginning of the calendar year following actual spill, have aggregated more than an average of seven hundred and ninety thousand (790,000) acre-feet per annum, the time at which such minimum stage is reached shall be adjusted to compensate for the difference between the total actual release and releases at such average rate; provided, further, that Colorado or New Mexico, or both, may relinquish accrued credits at any time, and Texas may accept such relinquished water, and in such event the State or States so relinquishing shall be entitled to store water in the amount of the water so relinquished.

ARTICLE VIII

During the month of January of any year the Commissioner for Texas may demand of Colorado and New Mexico, and the Commissioner for New Mexico may demand of Colorado, the release of water from storage reservoirs constructed after 1929 to the amount of the accrued debits of Colorado and New Mexico, respectively, and such releases shall be made by each at the greatest rate practicable under the conditions then prevailing, and in proportion to the total debit of each, and in amounts, limited by their accrued debits, sufficient to bring the quantity of usable water in project storage to six hundred thousand (600,000) acre-feet by March 1st and to maintain this quantity in storage until April 30th, to the end that a normal release of seven hundred and ninety thousand (790,000) acre-feet may be made from project storage in that year.

ARTICLE IX

Colorado agrees with New Mexico that in event the United States or the State of New Mexico decides to construct the necessary works for diverting the waters of the San Juan River, or any of its tributaries, into the Rio Grande, Colorado hereby consents to the construction of said works and the diversion of waters from the San Juan River, or the tributaries thereof, into the Rio Grande in New Mexico, provided the present and prospective uses of water in Colorado by other diversions from the San Juan River, or its tributaries, are protected.

ARTICLE X

In the event water from another drainage basin shall be imported into the Rio Grande Basin by the United States or Colorado or New Mexico, or any of them jointly, the State having the right to the use of such water shall be given proper credit therefor in the application of the schedules.

ARTICLE XI

New Mexico and Texas agree that upon the effective date of this Compact all controversies between said States relative to the quantity or quality of the water of the Rio Grande are composed and settled; however, nothing herein shall be interpreted to prevent recourse by a signatory State to the Supreme Court of the United States for redress should the character or quality of the water, at the point of delivery, be changed hereafter by one signatory State to the injury of another. Nothing herein shall be construed as an admission by any signatory State that the use of water for irrigation causes increase of salinity for which the user is responsible in law.

ARTICLE XII

To administer the provisions of this Compact there shall be constituted a Commission composed of one representative from each State, to be known as the Rio Grande Compact Commission. The State Engineer of Colorado shall be ex-officio the Rio Grande Compact Commissioner for Colorado. The State Engineer of New Mexico shall be ex-officio the Rio Grande Compact Commissioner for New Mexico. The Rio Grande Compact Commissioner for Texas shall be appointed by the Governor of Texas. The President of the United States shall be requested to designate a representative of the United States to sit with such Commission, and such Representative of the United States, if so designated by the President, shall act as Chairman of the Commission without vote.

The salaries and personal expenses of the Rio Grande Compact Commissioners for the three (3) States shall be paid by their respective States, and all other expenses incident to the administration of this Compact, not borne by the United States, shall be borne equally by the three (3) States.

In addition to the powers and duties hereinbefore specifically conferred upon such Commission and the Members thereof, the jurisdiction of such Commission shall extend only to the collection, correlation, and presentation of factual data and the maintenance of records having a bearing upon the administration of this Compact, and, by unanimous action, to the making of recommendations to the respective States upon

matters connected with the administration of this Compact. In connection therewith, the Commission may employ such engineering and clerical aid as may be reasonably necessary within the limit of funds provided for that purpose by the respective States. Annual reports compiled for each calendar year shall be made by the Commission and transmitted to the Governors of the signatory States on or before March 1st following the year covered by the report. The Commission may, by unanimous action, adopt rules and regulations consistent with the provisions of this Compact to govern their proceedings.

The findings of the Commission shall not be conclusive in any Court or tribunal which may be called upon to interpret or enforce this Compact.

ARTICLE XIII

At the expiration of every five-year period after the effective date of this Compact, the Commission may, by unanimous consent, review any provisions hereof which are not substantive in character and which do not affect the basic principles upon which the Compact is founded, and shall meet for the consideration of such questions on the request of any member of the Commission; provided, however, that the provisions hereof shall remain in full force and effect until changed and amended with the intent of the Compact by unanimous action of the Commissioners, and until any changes in this Compact are ratified by the Legislatures of the respective States and consented to by the Congress, in the same manner as this Compact is required to be ratified to become effective.

ARTICLE XIV

The schedules herein contained and the quantities of water herein allocated shall never be increased nor diminished by reason of any increase or diminution in the delivery or loss of water to Mexico.

ARTICLE XV

The physical and other conditions characteristic of the Rio Grande and peculiar to the territory drained and served thereby, and to the development thereof, have actuated this Compact and none of the signatory States admits that any provisions herein contained establishes any general principle or precedent applicable to other interstate streams.

ARTICLE XVI

Nothing in this Compact shall be construed as affecting the obligations of the United States of America to Mexico under existing treaties, or to the Indian Tribes, or as impairing the Rights of the Indian Tribes.

ARTICLE XVII

This Compact shall become effective when ratified by the Legislatures of each of the signatory States and consented to by the Congress of the United States. Notice of ratification shall be given by the Governor of each State to the Governors of the other States and to the President of the United States, and the President of the United States is requested to give notice to the Governors of each of the signatory States of the consent of the Congress of the United States.

IN WITNESS WHEREOF, The Commissioners have signed this Compact in quadruplicate original, one of which shall be deposited in the archives of the Department of State of the United States of America and shall be deemed the authoritative original, and of which a duly certified copy shall be forwarded to the Governor of each of the signatory States.

Done at the City of Sante Fe, in the State of New Mexico, on the 18th day of March, in the year of our Lord, One Thousand Nine Hundred and Thirty-eight.

(Signed) M. C. Hinderlider

(Signed) Thomas M. McClure

(Signed) Frank B. Clayton

Approved:

(Signed) S. O. Harper

CHAPTER 42. PECOS RIVER COMPACT

Section 42.001. Ratification

The Pecos River Compact, the text of which is set out in Section 42.010 of this code, was ratified by the legislature of this state in Chapter 30, Acts of the 51st Legislature, Regular Session, 1949, after having been signed at Santa Fe, New Mexico, on December 3, 1948, by John H. Bliss, commissioner for the State of New Mexico, and Charles H. Miller, commissioner for the State of Texas, and approved by Berkeley Johnson, representing the United States. (51st Legis., Ch. 30, Sec. 1 (part).)

§ 42.002. Original Copy

An original copy of the compact is on file in the office of the secretary of state. (51st Legis., Ch. 30, Sec. 1 (part).)

§ 42.003. Commissioner

The governor, with the advice and consent of the senate, shall appoint a commissioner to represent this state on the commission established by Article V of the compact. (51st Legis., Ch. 30, Sec. 2, sen. 1 (part), as amended.)

§ 42.004. Term of Office

The commissioner holds office for a term of two years and until his successor is appointed and has qualified. (51st Legis., Ch. 30, Sec. 2, sen. 2, as amended.)

§ 42.005. Oath

The commissioner shall take the constitutional oath of office and shall also take an oath to faithfully perform his duties as commissioner. (51st Legis., Ch. 30, Sec. 2, sen. 3, as amended.)

§ 42.006. Compensation; Expenses

The commissioner is entitled to compensation as provided by legislative appropriation. He is entitled to reimbursement for actual expenses incurred while traveling in the discharge of his duties. (51st Legis., Ch. 30, Sec. 2, sen. 4, 5, as amended.)

§ 42.007. Employees; Administrative Expenses

The commissioner may employ engineering, legal, and clerical personnel as necessary to protect the interest of the state and to carry out and enforce the terms of the compact. He may incur necessary office expenses and other expenses incident to the proper performance of his duties and the proper administration of the compact. However, the commissioner shall not incur any financial obligation on behalf of this state until the legislature has authorized and appropriated money for the obligation. (51st Legis., Ch. 30, Sec. 2, sen. 7, 8, 9, as amended.)

§ 42.008. Powers and Duties

(a) The commissioner is responsible for administering the provisions of the compact, and he has all the powers and duties prescribed by the compact. (51st Legis., Ch. 30, Sec. 2, sen. 1 (part), as amended.)

(b) The commissioner may meet and confer with the New Mexico commissioner at any place the commission considers proper. (51st Legis., Ch. 30, Sec. 2, sen. 6, as amended.)

§ 42.009. Cooperation of Water Rights Commission

The Texas Water Rights Commission shall cooperate with the commissioner in the performance of his duties and shall furnish him any available data and information he needs. (51st Legis., Ch. 30, Sec. 4.)

§ 42.010. Text of Compact

The Pecos River Compact reads as follows:

PECOS RIVER COMPACT

Entered Into by the States of

NEW MEXICO

and

TEXAS

Santa Fe, New Mexico
December 3, 1948

PECOS RIVER COMPACT

The State of New Mexico and the State of Texas, acting through their Commissioners, John H. Bliss for the State of New Mexico and Charles H. Miller for the State of Texas, after negotiations participated in by Berkeley Johnson, appointed by the President as the representative of the United States of America, have agreed respecting the uses, apportionment and deliveries of the water of the Pecos River as follows:

ARTICLE I

The major purposes of this Compact are to provide for the equitable division and apportionment of the use of the waters of the Pecos River; to promote interstate comity; to remove causes of present and future controversies; to make secure and protect present development within the states; to facilitate the construction of works for, (a) the salvage of wa-

ter, (b) the more efficient use of water, and (c) the protection of life and property from floods.

ARTICLE II

As used in this Compact:

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

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

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

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

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

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

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

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

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

ARTICLE III

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

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

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

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

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

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

ARTICLE IV

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

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

(c) New Mexico and Texas each may:

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

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

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

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

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

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

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

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

ARTICLE V

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

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

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

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

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

7. Make findings as to the quantities of water salvaged and the amount thereof delivered at the New Mexico-Texas state line;

8. Make findings as to quantities of water non-beneficially consumed in New Mexico;

9. Make findings as to quantities of unappropriated flood waters;

10. Make findings as to the quantities of reservoir losses from reservoirs constructed in New Mexico which may be used for the benefit of both states, and as to the share thereof charged under Article VI hereof to each of the states;

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

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

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

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

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

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

ARTICLE VI

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE VII

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

ARTICLE VIII

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

ARTICLE IX

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

ARTICLE X

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

ARTICLE XI

Nothing in this Compact shall be construed as:

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

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

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

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

ARTICLE XII

The consumptive use of water by the United States or any of its agencies, instrumentalities or wards shall be charged as a use by the state in which the use is made; provided, that such consumptive use incident⁶ 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 Con-

⁶ So in enrolled bill.

gress of the United States. Notice of ratification by the legislature of each State shall be given by the Governor of that State to the Governor of the other State and to the President of the United States, and the President is hereby requested to give notice to the Governor of each State of approval by the Congress of the United States.

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

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

JOHN H. BLISS
Commissioner for the State of
New Mexico

CHARLES H. MILLER
Commissioner for the State of
Texas

APPROVED

BERKELEY JOHNSON
Representative of the United States of America

CHAPTER 43. CANADIAN RIVER COMPACT

Section 43.001. Ratification

The Canadian River Compact, the text of which is set out in Section 43.006 of this code, was ratified by the legislature of this state in Chapter 153, Acts of the 52nd Legislature, Regular Session, 1951, after having been signed at Santa Fe, New Mexico, on December 6, 1950, by John H. Bliss, commissioner for the State of New Mexico, E. V. Spence, commissioner for the State of Texas, and Clarence Burch, commissioner for the State of Oklahoma, and approved by Berkeley Johnson, representing the United States. (52nd Legis., Ch. 153, Sec. 1 (part).)

§ 43.002. Original Copy

An original copy of the compact is on file in the office of the secretary of state. (52nd Legis., Ch. 153, Sec. 1 (part).)

§ 43.003. Commissioner

The governor shall appoint a commissioner to represent this state on the commission established by Article IX of the compact. (52nd Legis., Ch. 153, Sec. 2, sen. 1, as amended.)

§ 43.004. Expenses

The commissioner is entitled to reimbursement for actual expenses incurred in the discharge of his duties. (52nd Legis., Ch. 153, Sec. 2, sen. 3 (part), as amended.)

§ 43.005. Powers and Duties

(a) The commissioner is responsible for administering the provisions of the compact, and he has all the powers and duties prescribed by the compact.

(b) The commissioner may meet and confer with the other commissioners at any place the commission considers proper. (52nd Legis., Ch. 153, Sec. 2, sen. 2, 3 (part), as amended.)

§ 43.006. Text of Compact

The Canadian River Compact reads as follows:

CANADIAN RIVER COMPACT

The State of New Mexico, the State of Texas, and the State of Oklahoma, acting through their Commissioners, John H. Bliss for the State of New Mexico, E. V. Spence for the State of Texas, and Clarence Burch for the State of Oklahoma, after negotiations participated in by Berkeley Johnson, appointed by the President as the representative of the United States of America, have agreed respecting Canadian River as follows:

ARTICLE I

The major purposes of this Compact are to promote interstate comity; to remove causes of present and future controversy; to make secure and protect present developments within the States; and to provide for the construction of additional works for the conservation of the waters of Canadian River.

ARTICLE II

As used in this Compact:

(a) The term "Canadian River" means the tributary of Arkansas River which rises in northeastern New Mexico and flows in an easterly direction through New Mexico, Texas and Oklahoma and includes North Canadian River and all other tributaries of said Canadian River.

(b) The term "North Canadian River" means that major tributary of Canadian River officially known as North Canadian River from its source to its junction with Canadian River and includes all tributaries of North Canadian River.

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

(d) The term "conservation storage" means that portion of the capacity of reservoirs available for the storage of water for subsequent release for domestic, municipal, irrigation and industrial uses, or any of them, and it excludes any portion of the capacity of reservoirs allocated solely to flood control, power production and sediment control, or any of them.

ARTICLE III

All rights to any of the waters of Canadian River which have been perfected by beneficial use are hereby recognized and affirmed.

ARTICLE IV

(a) New Mexico shall have free and unrestricted use of all waters originating in the drainage basin of Canadian River above Conchas Dam.

(b) New Mexico shall have free and unrestricted use of all waters originating in the drainage basin of Canadian River in New Mexico below Conchas Dam, provided that the amount of conservation storage in New Mexico available for impounding these waters which originate in the drainage basin of Canadian River below Conchas Dam shall be limited to an aggregate of two hundred thousand (200,000) acre-feet.

(c) The right of New Mexico to provide conservation storage in the drainage basin of North Canadian River shall be limited to the storage of such water as at the time may be unappropriated under the laws of New Mexico and of Oklahoma.

ARTICLE V

Texas shall have free and unrestricted use of all waters of Canadian River in Texas, subject to the limitations upon storage of water set forth below:

(a) The right of Texas to impound any of the waters of North Canadian River shall be limited to storage on tributaries of said River in Texas for municipal uses, for household and domestic uses, livestock watering, and the irrigation of lands which are cultivated solely for the purpose of providing food and feed for the householders and domestic livestock actually living or kept on the property.

(b) Until more than three hundred thousand (300,000) acre-feet of conservation storage shall be provided in Oklahoma, exclusive of reservoirs in the drainage basin of North Canadian River and exclusive of reservoirs in the drainage basin of Canadian River east of the 97th meridian, the right of Texas to retain water in conservation storage, exclusive of waters of North Canadian River, shall be limited to five hundred thousand (500,000) acre-feet; thereafter the right of Texas to impound and retain such waters in storage shall be limited to an aggregate quantity equal to two hundred thousand (200,000) acre-feet plus whatever amount of water shall be at the same time in conservation storage in reservoirs in the drainage basin of Canadian River in Oklahoma, exclusive of reservoirs in the drainage basin of North Canadian River and exclusive of reservoirs east of the 97th meridian; and for the purpose of determining the amount of water in conservation storage, the maximum quantity of water in storage following each flood or series of floods shall be used; provided, that the right of Texas to retain and use any quantity of water previously impounded shall not be reduced by any subsequent application of the provisions of this paragraph (b).

(c) Should Texas for any reason impound any amount of water greater than the aggregate quantity specified in paragraph (b) of this Article, such excess shall be retained in storage until under the provisions of said paragraph Texas shall become entitled to its use; provided, that, in event of spill from conservation storage, any such excess shall be reduced by the amount of such spill from the most easterly reservoir on Canadian River in Texas; provided further, that all such excess quantities in storage shall be reduced monthly to compensate for reservoir losses in proportion to the total amount of water in the reservoir or reservoirs in which such excess water is being held; and provided further that on demand by the Commissioner for Oklahoma the remainder of any such excess quantity of water in storage shall be released into the channel of Canadian River at the greatest rate practicable.⁷

⁷ So in enrolled bill.

ARTICLE VI

Oklahoma shall have free and unrestricted use of all waters of Canadian River in Oklahoma.

ARTICLE VII

The Commission may permit New Mexico to impound more water than the amount set forth in Article IV and may permit Texas to impound more water than the amount set forth in Article V; provided, that no State shall thereby be deprived of water needed for beneficial use; provided further that each such permission shall be for a limited period not exceeding twelve (12) months; and provided further that no State or user of water within any State shall thereby acquire any right to the continued use of any such quantity of water so permitted to be impounded.

ARTICLE VIII

Each State shall furnish to the Commission at intervals designated by the Commission accurate records of the quantities of water stored in reservoirs pertinent to the administration of this Compact.

ARTICLE IX

(a) There is hereby created an interstate administrative agency to be known as the "Canadian River Commission." The Commission shall be composed of three (3) Commissioners, one (1) from each of the signatory States, designated or appointed in accordance with the laws of each such State, and if designated by the President an additional Commissioner representing the United States. The President is hereby requested to designate such a Commissioner. If so designated, the Commissioner representing the United States shall be the presiding officer of the Commission, but shall not have the right to vote in any of the deliberations of the Commission. All members of the Commission must be present to constitute a quorum. A unanimous vote of the Commissioners for the three (3) signatory States shall be necessary to all actions taken by the Commission.

(b) The salaries and personal expenses of each Commissioner shall be paid by the government which he represents. All other expenses which are incurred by the Commission incident to the administration of this Compact and which are not paid by the United States shall be borne equally by the three (3) States and be paid by the Commission out of a revolving fund hereby created to be known as the "Canadian River Revolving Fund." Such fund shall be initiated and maintained by equal payments of each State into the fund in such amounts as will be necessary for administration of this Compact. Disbursements shall be made from said fund in such manner as may be authorized by the Commission. Said fund shall not be subject to the audit and accounting procedures of the States. However, all receipts and disbursements of funds handled by the Commission shall be audited by a qualified independent public accountant at regular intervals and the report of the audit shall be included in and become a part of the annual report of the Commission.

(c) The Commission may:

(1) Employ such engineering, legal, clerical, and other personnel as in its judgment may be necessary for the performance of its functions under this Compact;

(2) Enter into contracts with appropriate Federal agencies for the collection, correlation, and presentation of factual data, for the maintenance of records, and for the preparation of reports;

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

(d) The Commission shall:

(1) Cause to be established, maintained and operated such stream and other gaging stations and evaporation stations as may from time to time be necessary for proper administration of the Compact, independently or in cooperation with appropriate governmental agencies;

(2) Make and transmit to the Governors of the signatory States on or before the last day of March of each year, a report covering the activities of the Commission for the preceding year;

(3) Make available to the Governor of any signatory state, on his request, any information within its possession at any time, and shall always provide access to its records by the Governors of the States, or their representatives, or by authorized representatives of the United States.

ARTICLE X

Nothing in this Compact shall be construed as:

(a) Affecting the obligations of the United States to the Indian Tribes;

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

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

(d) Applying to, or interfering with, the right or power of any signatory State to regulate within its boundaries the appropriation, use and control of water, not inconsistent with its obligations under this Compact;

(e) Establishing any general principle or precedent applicable to other interstate streams.

ARTICLE XI

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

Ch. 58 62nd LEGISLATURE—REGULAR SESSION
Water § 43.006

IN WITNESS WHEREOF, The Commissioners have executed four (4) counterparts hereof, each of which shall be and constitute an original, one (1) of which shall be deposited in the archives of the Department of State of the United States, and (1) of which shall be forwarded to the Governor of each State.

DONE at the City of Santa Fe, State of New Mexico, this 6th day of December, 1950.

/s/ John H. Bliss
John H. Bliss
Commissioner for the State of
New Mexico

/s/ E. V. Spence
E. V. Spence
Commissioner for the State of
Texas

/s/ Clarence Burch
Clarence Burch
Commissioner for the State of
Oklahoma

APPROVED:

/s/ Berkeley Johnson
Berkeley Johnson
Representative of the United
States of America

CHAPTER 44. SABINE RIVER COMPACT

Section 44.001. Ratification

The Sabine River Compact, the text of which is set out in Section 44.010 of this code, was ratified by the legislature of this state in Chapter 63, Acts of the 53rd Legislature, Regular Session, 1953, after having been signed at Logansport, Louisiana, on January 26, 1953, by Roy T. Sessums, representative for the State of Louisiana, and Henry L. Woodworth and John W. Simmons, representatives for the State of Texas, and approved by Louis W. Prentiss, representative of the United States. (53rd Legis., Ch. 63, Sec. 1 (part).)

§ 44.002. Original Copy

An original copy of the compact is on file in the office of the secretary of state. (53rd Legis., Ch. 63, Sec. 1 (part).)

§ 44.003. Members

The governor, with the advice and consent of the senate, shall appoint two members to represent this state on the administration established by Article VII of the compact. (53rd Legis., Ch. 63, Sec. 2, sen. 1 (part), as amended.)

§ 44.004. Terms of Office

The members hold office for staggered terms of six years, with the term of one member expiring every three years. Each member holds of-

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office until his successor is appointed and has qualified. (53rd Legis., Ch. 63, Sec. 2, sen. 2, as amended.)

§ 44.005. Oath

Each member shall take the constitutional oath of office and shall also take an oath to faithfully perform his duties as a member of the compact administration. (53rd Legis., Ch. 63, Sec. 2, sen. 3, as amended.)

§ 44.006. Compensation; Expenses

Each member is entitled to compensation in the amount of \$25 per day of service necessary to discharge his duties under the compact. Each member is entitled to reimbursement for actual expenses incurred in the discharge of these duties. (53rd Legis., Ch. 63, Sec. 2, sen. 4, as amended.)

§ 44.007. Employees; Administrative Expenses

The members may make investigations and appoint engineering, legal, and clerical employees as necessary to protect the interest of this state and to carry out and enforce the compact. They may incur necessary office expenses and other expenses incident to the proper performance of their duties and the proper administration of the compact. (53rd Legis., Ch. 63, Sec. 2, sen. 6, 7, as amended.)

§ 44.008. Powers and Duties

(a) The members are responsible for administering the provisions of the compact, and have all the powers and duties prescribed by the compact.

(b) The members may meet and confer with the Louisiana members at any place the administration considers proper. (53rd Legis., Ch. 63, Sec. 2, sen. 1 (part), 5, as amended.)

§ 44.009. Cooperation of Water Rights Commission

The Texas Water Rights Commission shall cooperate with the members in the performance of their duties and shall furnish them any available data and information they need. (53rd Legis., Ch. 63, Sec. 3.)

§ 44.010. Text of Compact

The Sabine River Compact reads as follows:

SABINE RIVER COMPACT

Entered Into by the States of

LOUISIANA

and

TEXAS

Logansport, Louisiana
January 26, 1953

SABINE RIVER COMPACT

The State of Texas and the State of Louisiana, parties signatory to this Compact (hereinafter referred to as "Texas" and "Louisiana", respective-

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ly, or individually as a "State", or collectively as the "States"), having resolved to conclude a compact with respect to the waters of the Sabine River, and having appointed representatives as follows:

For Texas:	Henry L. Woodworth, Interstate Compact Commissioner for Texas; and John W. Simmons, President of the Sabine River Authority of Texas;
For Louisiana:	Roy T. Sessums, Director of the Department of Public Works of the State of Louisiana;

and consent to negotiate and enter into the said Compact having been granted by Act of the Congress of the United States approved November 1, 1951 (Public Law No. 252; 82nd Congress, First Session), and pursuant thereto the President having designated Louis W. Prentiss as the representative of the United States, the said representatives for Texas and Louisiana, after negotiations participated in by the representative of the United States, have for such Compact agreed upon Articles as hereinafter set forth. The major purposes of this Compact are to provide for an equitable apportionment between the States of Louisiana and Texas of the waters of the Sabine River and its tributaries, thereby removing the causes of present and future controversy between the States over the conservation and utilization of said waters; to encourage the development, conservation and utilization of the water resources of the Sabine River and its tributaries; and to establish a basis for cooperative planning and action by the States for the construction, operation and maintenance of projects for water conservation and utilization purposes on that reach of the Sabine River touching both States, and for apportionment of the benefits therefrom.

It is recognized that pollution abatement and salt water intrusion are problems which are of concern to the States of Louisiana and Texas, but inasmuch as this Compact is limited to the equitable apportionment of the waters of the Sabine River and its tributaries between the States of Louisiana and Texas, this Compact does not undertake the solution of those problems.

ARTICLE I

As used in this Compact:

(a) The word "Stateline" means the point on the Sabine River where its waters in downstream flow first touch the States of both Louisiana and Texas.

(b) The term "waters of the Sabine River" means the waters either originating in the natural drainage basin of the Sabine River, or appearing as streamflow in said River and its tributaries, from its headwater source down to the mouth of the River where it enters into Sabine Lake.

(c) The term "Stateline flow" means the flow of waters of the Sabine River as determined by the Logansport gauge located on the U. S. Highway 84, approximately four (4) river miles downstream from the Stateline. This flow, or the flow as determined by such substitute gauging station as may be established by the Administration, as hereinafter defined, pursuant to the provisions of Article VII of this Compact, shall be deemed the actual Stateline flow.

(d) The term "Stateline reach" means that portion of the Sabine River lying between the Stateline and Sabine Lake.

(e) The term "the Administration" means the Sabine River Compact Administration established under Article VII.

(f) The term "Domestic use" means the use of water by an individual, or by a family unit or household for drinking, cooking, laundering, sanitation and other personal comforts and necessities; and for the irrigation of an area not to exceed one acre, obtained directly from the Sabine River or its tributaries by an individual or family unit, not supplied by a water company, water district or municipality.

(g) The term "stock water use" means the use of water for any and all livestock and poultry.

(h) The term "consumptive use" means use of water resulting in its permanent removal from the stream.

(i) The terms "domestic" and "stock water" reservoir mean any reservoir for either or both of such uses having a storage capacity of fifty (50) acre feet or less.

(j) "Stored water" means water stored in reservoirs (exclusive of domestic or stock water reservoirs) or water withdrawn or released from reservoirs for specific uses and the identifiable return flow from such uses.

(k) The term "free water" means all waters other than "stored waters" in the Stateline reach including, but not limited to, that appearing as natural stream flow and not withdrawn or released from a reservoir for specific uses. Waters released from reservoirs for the purpose of maintaining stream flows as provided in Article V, shall be "free water". All reservoir spills or releases of stored waters made in anticipation of spills, shall be free water.

(l) Where the name of the State or the term "State" is used in this Compact, it shall be construed to include any person or entity of any nature whatsoever of the States of Louisiana or Texas using, claiming, or in any manner asserting any right to the use of the waters of the Sabine River under the authority of that State.

(m) Wherever any State or Federal official or agency is referred to in this Compact, such reference shall apply equally to the comparable official or agency succeeding to their duties and functions.

ARTICLE II

Subject to the provisions of Article X, nothing in this Compact shall be construed as applying to, or interfering with, the right or power of either signatory State to regulate within its boundaries the appropriation, use and control of water, not inconsistent with its obligation under this Compact.

ARTICLE III

Subject to the provisions of Article X, all rights to any of the waters of the Sabine River which have been obtained in accordance with the laws of the States are hereby recognized and affirmed; provided, however, that withdrawals, from time to time, for the satisfaction of such rights, shall be subject to the availability of supply in accordance with the apportionment of water provided under the terms of this Compact.

ARTICLE IV

Texas shall have free and unrestricted use of all waters of the Sabine River and its tributaries above the Stateline subject, however, to the provisions of Articles V and X.

ARTICLE V

Texas and Louisiana hereby agree upon the following apportionment of the waters of the Sabine River:

(a) All free water in the Stateline reach shall be divided equally between the two States, this division to be made without reference to the origin.

(b) The necessity of maintaining a minimum flow at the Stateline for the benefit of water users below the Stateline in both States is recognized, and to this end it is hereby agreed that:

(1) Reservoirs and permits above the Stateline existing as of January 1, 1953 shall not be liable for maintenance of the flow at the Stateline.

(2) After January 1, 1953, neither State shall permit or authorize any additional uses which would have the effect of reducing the flow at the Stateline to less than 36 cubic feet per second.

(3) Reservoirs on which construction is commenced after January 1, 1953, above the Stateline shall be liable for their share of water necessary to provide a minimum flow at the Stateline of 36 cubic feet per second; provided, that no reservoir shall be liable for a greater percentage of this minimum flow than the percentage of the drainage area above the Stateline contributing to that reservoir, exclusive of the watershed of any reservoir on which construction was started prior to January 1, 1953. Water released from Texas' reservoirs to establish the minimum flow of 36 cubic feet per second, shall be classed as free water at the Stateline and divided equally between the two States.

(c) The right of each State to construct impoundment reservoirs and other works of improvement on the Sabine River or its tributaries located wholly within its boundaries is hereby recognized.

(d) In the event that either State constructs reservoir storage on the tributaries below Stateline after January 1, 1953, there shall be deducted from that State's share of the flow in the Sabine River all reductions in flow resulting from the operation of the tributary storage and conversely such State shall be entitled to the increased flow resulting from the regulation provided by such storage.

(e) Each State shall have the right to use the main channel of the Sabine River to convey water stored on the Sabine River or its tributaries located wholly within its boundaries, downstream to a desired point of removal without loss of ownership of such stored waters. In the event that such water is released by a State through the natural channel of a tributary and the channel of the Sabine River to a downstream point of removal, a reduction shall be made in the amount of water which can be withdrawn at the point of removal equal to the transmission losses.

(f) Each State shall have the right to withdraw its share of the water from the channel of the Sabine River in the Stateline reach in accordance with Article VII. Neither State shall withdraw at any point more

than its share of the flow at that point except, that pursuant to findings and determination of the Administration as provided under Article VII of this Compact, either State may withdraw more or less of its share of the water at any point providing that its aggregate withdrawal shall not exceed its total share. Withdrawals made pursuant to this paragraph shall not prejudice or impair the existing rights of users of Sabine River waters.

(g) Waters stored in reservoirs constructed by the States in the Stateline reach shall be shared by each State in proportion to its contribution to the cost of storage. Neither State shall have the right to construct a dam on the Stateline reach without the consent of the other State.

(h) Each State may vary the rate and manner of withdrawal of its share of such jointly stored waters on the Stateline reach, subject to meeting the obligations for amortization of the cost of the joint storage. In any event, neither State shall withdraw more than its pro-rata share in any one year (a year meaning a water year, October 1st to September 30th) except by authority of the Administration. All jointly stored water remaining at the end of a water year shall be reapportioned between the States in the same proportion as their contribution to the cost of the storage.

(i) Except for jointly stored water, as provided in (h) above, each State must use its apportionment of the natural stream flows as they occur and there shall be no allowance of accumulation of credits or debits for or against either State. The failure of either State to use the stream flow or any part thereof, the use of which is apportioned to it under the terms of this Compact, shall not constitute a relinquishment of the right to such use in the future; conversely, the failure of either State to use the water at the time it is available does not give it the right to the flow in excess of its share of the flow at any other time.

(j) From the apportionment of waters of the Sabine River as defined in this Article, there shall be excluded from such apportionment all waters consumed in either State for domestic and stock water uses. Domestic and stock water reservoirs shall be so excluded.

(k) Each State may use its share of the water apportioned to it in any manner that may be deemed beneficial by that State.

ARTICLE VI

(a) The States through their respective appropriate agencies or subdivisions may construct jointly, or cooperate with any agency or instrumentality of the United States in the construction of works on the Stateline reach for the development, conservation and utilization for all beneficial purposes of the waters of the Sabine River.

(b) All monetary revenues growing out of any joint State ownership, title and interest in works constructed under Section (a) above, and accruing to the States in respect thereof, shall be divided between the States in proportion to their respective contributions to the cost of construction; provided however, that each State shall retain undivided all its revenues from recreational facilities within its boundaries incidental to the use of the waters of the Sabine River, and from its severally State-owned recreational facilities constructed appurtenant thereto.

(c) All operation and maintenance costs chargeable against any State ownership, title and interest in works constructed under Section (a)

above, shall be assessed in proportion to the contribution of each State to the original cost of construction.

ARTICLE VII

(a) There is hereby created an interstate administrative agency to be designated as the "Sabine River Compact Administration" herein referred to as "the Administration".

(b) The Administration shall consist of two members from each State and of one member as representative of the United States, chosen by the President of the United States, who is hereby requested to appoint such a representative. The United States member shall be ex-officio chairman of the Administration without vote and shall not be a domiciliary of or reside in either State. The appointed members for Texas and Louisiana shall be designated within thirty days after the effective date of this Compact.

(c) The Texas members shall be appointed by the Governor for a term of six years; provided, however, that one of the original Texas members shall be appointed for a term to establish a half-term interval between the expiration dates of the terms of such members, and thereafter one such member shall be appointed each three (3) years for the regular term. One of the Louisiana members shall be ex officio the Director of the Louisiana Department of Public Works; the other Louisiana member shall be a resident of the Sabine Watershed and shall be appointed by the Governor of Louisiana for a term of four (4) years; provided that the first member so appointed shall serve until June 30, 1958. Each state member shall hold office subject to the laws of his state or until his successor has been duly appointed and qualified.

(d) Interim vacancy, for whatever cause, in the office of any member of the Administration shall be filled for the unexpired term in the same manner as hereinabove provided for regular appointment.

(e) Within sixty days after the effective date of this Compact, the Administration shall meet and organize. A quorum for any meeting shall consist of three voting members of the Administration. Each State member shall have one vote, and every decision, authorization, determination, order or other action shall require the concurring votes of at least three members.

(f) The Administration shall have power to:

(1) Adopt, amend and revoke by-laws, rules and regulations, and prescribe procedures for administration of and consistent with the provisions of this Compact;

(2) Fix and determine from time to time the location of the Administration's principal office;

(3) Employ such engineering, legal, clerical and other personnel, without regard to the civil service laws of either State, as the Administration may determine necessary or proper to supplement State-furnished assistance as hereinafter provided, for the performance of its functions under this Compact; provided, that such employees shall be paid by and be responsible to the Administration and shall not be considered to be employees of either State;

(4) Procure such equipment, supplies and technical assistance as the Administration may determine to be necessary or proper to supplement

State-furnished assistance as hereinafter provided, for the performance of its functions under this Compact;

(5) Adopt a seal which shall be judicially recognized.

(g) In cooperation with the chief official administering water rights in each State and with appropriate Federal agencies, the Administration shall have and perform powers and duties as follows:

(1) To collect, analyze, correlate, compile and report on data as to water supplies, stream flows, storage, diversions, salvage and use of the waters of the Sabine River and its tributaries, and as to all factual data necessary or proper for the administration of this Compact;

(2) To designate as official stations for the administration of this Compact such existing water gauging stations (and to operate, maintain, repair and abandon the same), and to locate, establish, construct, operate, maintain, repair and abandon additional such stations, as the Administration may from time to time find and determine necessary or appropriate;

(3) To make findings as to the deliveries of water at Stateline as hereinabove provided, from the stream-flow records of the Stateline gauge which shall be operated and maintained by the Administration or in cooperation with the appropriate Federal agency, for determination of the actual Stateline flow unless the Administration shall find and determine that, because of changed physical conditions or for any other reason, reliable records are not obtainable thereat; in which case such existing Stateline station may with the approval of the Administration be abandoned and, with such approval, a substitute Stateline station established in lieu thereof;

(4) To make findings as to the quantities of reservoir storage (including joint storage) and releases therefrom, diversions, transmission losses and as to incident stream-flow changes, and as to the share of such quantities chargeable against or allocable to the respective States;

(5) To record and approve all points of diversion at which water is to be removed from the Sabine River or its tributaries below the Stateline; provided that, in any case, the State agency charged with the administration of the water laws for the State in which such point of diversion is located shall first have approved such point for removal or diversion; provided further, that any such point of removal or diversion once jointly approved by the appropriate State agency and the Administration, shall not thereafter be changed without the joint amendatory approval of such State agency and the Administration;

(6) To require water users at their expense to install and maintain measuring devices of approved type in any ditch, pumping station or other water diversion works on the Sabine River or its tributaries below the Stateline, as the Administration may determine necessary or proper for the purposes of this Compact; provided that the chief official of each State charged with the administration of water rights therein shall supervise the execution and enforcement of the Administration's requirements for such measuring devices;

(7) To investigate any violation of this Compact and to report findings and recommendations thereon to the chief official of the affected State charged with the administration of water rights, or to the Governor of such State as the Administration may deem proper;

(8) To acquire, hold, occupy and utilize such personal and real property as may be necessary or proper for the performance of its duties and functions under this Compact;

(9) To perform all functions required of the Administration by this Compact, and to do all things necessary, proper or convenient in the performance of its duties hereunder.

(h) Each State shall provide such available facilities, supplies, equipment, technical information and other assistance as the Administration may require to carry out its duties and function, and the execution and enforcement of the Administration's orders shall be the responsibility of the agents and officials of the respective States charged with the administration of water rights therein. State officials shall furnish pertinent factual and technical data to the Administration upon its request.

(i) Findings of fact made by the Administration shall not be conclusive in any court or before any agency or tribunal but shall constitute prima facie evidence of such facts.

(j) In the case of a tie vote on any of the Administration's determinations, orders or other actions subject to arbitration, then arbitration shall be a condition precedent to any right of legal action. Either side of a tie vote may, upon request, submit the question to arbitration. If there shall be arbitration, there shall be three arbitrators: one named in writing by each side, and the third chosen by the two arbitrators so elected. If the arbitrators fail to select a third within ten days, then he shall be chosen by the Representative of the United States.

(k) The salaries, if any, and the personal expenses of each member of the Administration, shall be paid by the Government which he represents. All other expenses incident to the administration of this Compact and which are not paid by the United States shall be borne equally by the States. Ninety days prior to the Regular Session of the Legislature of either State, the Administration shall adopt and transmit to the Governor of such State for his approval, its budget covering anticipated expenses for the forthcoming biennium and the amount thereof payable by such State. Upon approval by its Governor, each State shall appropriate and pay the amount due by it to the Administration. The Administration shall keep accurate accounts of all receipts and disbursements and shall include a statement thereof, together with a certificate of audit by a certified public accountant, in its annual report. Each State shall have the right to make an examination and audit of the accounts of the Administration at any time.

(l) The Administration shall, whenever requested, provide access to its records by the Governor of either State or by the chief official of either State charged therein with the administration of water rights. The Administration shall annually on or before January 15th of each year make and transmit to the Governors of the signatory States, and to the President of the United States, a report of the Administration's activities and deliberations for the preceding year.

ARTICLE VIII

(a) This Compact shall become effective when ratified by the Legislature and approved by the Governors of both States and when approved by the Congress of the United States.

(b) The provisions of this Compact shall remain in full force and effect until modified, altered or amended, or in the same manner as hereinabove required for ratification thereof. The right so to modify, alter or amend this Compact is expressly reserved. This Compact may be termi-

nated at any time by mutual consent of the signatory States. In the event this Compact is terminated as herein provided, all rights then vested hereunder shall continue unimpaired.

(c) Should a court of competent jurisdiction hold any part of this Compact to be contrary to the constitution of any signatory State or of the United States of America, all other severable provisions of this Compact shall continue in full force and effect.

ARTICLE IX

This Compact is made and entered into for the sole purpose of effecting an equitable apportionment and providing beneficial uses of the waters of the Sabine River, its tributaries and its watershed, without regard to the boundary between Louisiana and Texas, and nothing herein contained shall be construed as an admission on the part of either State or any agency, commission, department or subdivision thereof, respecting the location of said boundary; and neither this Compact nor any data compiled for the preparation or administration thereof shall be offered, admitted or considered in evidence, in any dispute, controversy, or litigation bearing upon the matter of the location of said boundary.

The term "Stateline" as defined in this Compact shall not be construed to define the actual boundary between the State of Texas and the State of Louisiana.

ARTICLE X

Nothing in this Compact shall be construed as affecting, in any manner, any present or future rights or powers of the United States, its agencies, or instrumentalities in, to and over the waters of the Sabine River Basin.

IN WITNESS WHEREOF, the Representatives have executed this Compact in three counterparts hereof, each of which shall be and constitute an original, one of which shall be forwarded to the Administrator, General Services Administration of the United States of America and one of which shall be forwarded to the Governor of each State.

DONE in the City of Logansport, in the State of Louisiana, this 26th day of January, 1953.

(SIGNED—Henry L. Woodworth)
HENRY L. WOODWORTH, Representative for the State of Texas

(SIGNED—John W. Simmons)
JOHN W. SIMMONS, Representative for the State of Texas

(SIGNED—Roy T. Sessums)
ROY T. SESSUMS, Representative for the State of Louisiana

APPROVED:

(SIGNED—Louis W. Prentiss)
LOUIS W. PRENTISS, Representative of the United States.

CHAPTER 45. NEGOTIATION OF RED RIVER COMPACT

Section 45.001. Appointment of Commissioner

The governor, with the advice and consent of the senate, shall appoint a Red River Compact Commissioner to represent this state in conferences with duly appointed compact commissioners of other affected states and a United States representative appointed by the president, to negotiate an agreement with each of the affected states respecting the use, control, and disposition of the water of the Red River and its tributaries. (51st Legis., Ch. 380, Sec. 1.)

§ 45.002. Term of Office

The commissioner holds office for a term of two years and until his successor is appointed and has qualified. (51st Legis., Ch. 380, Sec. 2, sen. 1.)

§ 45.003. Oath

The commissioner shall take the constitutional oath of office and shall also take an oath to faithfully perform his duties as commissioner. (51st Legis., Ch. 380, Sec. 2, sen. 2.)

§ 45.004. Compensation; Expenses

The commissioner is entitled to compensation in the amount of \$6,600 per year. He is entitled to reimbursement for necessary expenses. (51st Legis., Ch. 380, Sec. 5.)

§ 45.005. Powers

(a) The commissioner may meet and confer with the compact commissioners for the other affected states and the representative of the United States at any place the commissioners consider proper.

(b) The commissioner may make investigations and procure data as necessary for the proper performance of his duties. With the approval of the governor, he may employ clerical, legal, engineering, and other employees as necessary for the proper performance of his duties. (51st Legis., Ch. 380, Sec. 2, sen. 3, 4.)

§ 45.006. Cooperation of Water Rights Commission

The Texas Water Rights Commission shall cooperate with the commissioner in the performance of his duties and shall furnish him any available data and information he needs. (51st Legis., Ch. 380, Sec. 4.)

§ 45.007. Agreement to be Ratified

Any agreement which may be entered into between the commissioner on behalf of this state and the compact commissioners of the other affected states and the representative of the United States shall be reduced to writing and submitted to the governor of this state. No such agreement has any binding effect upon this state or its legal representatives until it has been ratified by the legislature of this state and approved by the governor, ratified by the legislatures of the other affected states, and consented to by the Congress of the United States. (51st Legis., Ch. 380, Sec. 3.)

TITLE 4. GENERAL LAW DISTRICTS**CHAPTER 50. PROVISIONS GENERALLY APPLICABLE
TO DISTRICTS****SUBCHAPTER A. GENERAL PROVISIONS****Section 50.001. Definition**

As used in this chapter:

- (1) "District" means any district or authority created under this title, either by authority of Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution.
- (2) "Commission" means the Texas Water Rights Commission.
- (3) "Board" means the Texas Water Development Board. (New.)

§ 50.002. Voter Qualifications; Election Procedures

The qualifications of voters in district elections are as specified in the state and federal constitutions and the procedures for conducting elections and for voting are as specified in the Texas Election Code except as otherwise provided in this title. (New.)

[Sections 50.003–50.020 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS**Section 50.021. Counties over 500,000: District Accounting System**

- (a) This section applies only to a district that:
 - (1) is located wholly inside a county having a population of 500,000 or more; and
 - (2) is composed of territory less than the whole county.
- (b) The officers of the district shall keep a complete system of accounts. Instead of having the auditing and supervising done by the county auditor, the district may contract with some competent person, firm, or corporation qualified under law to perform this work to audit the cash, books, accounts, records, and vouchers of all officers of the district at least once a year.
- (c) One copy of the audit report shall be filed with the governing board of the district and one copy shall be filed with the county auditor. The report shall be kept open to public inspection at all reasonable times.
- (d) Other than keeping the audit report on file, the county auditor has no duty in connection with the district. (50th Legis., Ch. 265, Sec. 1.)

§ 50.022. Filing Bond

Each member of the governing board of a district created under this code and who is required by law to file an official bond shall file a copy of the bond with the secretary of state within 10 days from the day the bond is required to be filed by law. (60th Legis., Ch. 594, Sec. 1.)

[Sections 50.023–50.050 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Section 50.051. Special Law Districts: Powers of Officers

In any district or authority that is created by legislative act under Article XVI, Section 59, of the Texas Constitution, and that has the power to provide a water supply for municipal or other uses, the directors, employees, and engineers have the same authority with respect to making surveys and attending to other business of the district or authority that directors, employees, and engineers of a water control and improvement district have under Section 51.000 of this code. (57th Legis., Ch. 422, Sec. 1.)

[Sections 50.052–50.100 reserved for expansion]

SUBCHAPTER D. REPORTS TO COMMISSION

Section 50.101. Order or Act Creating District

Within 60 days after the date a district is created, the district shall file with the Texas Water Rights Commission a certified copy of the order or legislative act creating the district or authorizing its creation. (54th Legis., Ch. 62, Sec. 1, sen. 1, as amended.)

§ 50.102. Boundary Change

Within 60 days after the date of any boundary change, a district shall file with the commission a certified copy of the order of the district's governing body changing the boundaries. (54th Legis., Ch. 62, Sec. 1, sen. 2, as amended.)

§ 50.103. List of Directors

(a) After any election or selection of a director, a district shall notify the commission within 30 days after the date of the election of the name of the director chosen and the date on which his term of office expires.

(b) If there is a change of directors due to resignation or death, the district shall immediately notify the commission of the name of the newly elected or appointed member. (54th Legis., Ch. 62, Sec. 2, sen. 2, 3, as amended.)

§ 50.104. Audit Report

Within 15 days after the date any audit of its affairs is completed, a district shall file a copy of the audit report with the commission and with the county clerk of the county in which the district's headquarters are located. (54th Legis., Ch. 62, Sec. 3, as amended.)

§ 50.105. Information Open to Public

The commission shall adopt a system for filing the information required by Sections 50.101–50.104 of this code, and shall allow public inspection of this file during the office hours of the commission. (54th Legis., Ch. 62, Sec. 4, as amended.)

§ 50.106. Penalty

A district that fails to comply fully with the provisions of Sections 50.101–50.104 of this code is subject to a civil penalty of \$50 and a further civil penalty of not more than \$2 a day for each day the district continues to violate these sections. However, the maximum penalty is \$300. The state may sue to recover the penalty. (54th Legis., Ch. 62, Sec. 5 as amended.)

[Sections 50.107–50.150 reserved for expansion]

SUBCHAPTER E. CONDEMNATION OF CEMETERIES**Section 50.151. Power to Condemn Cemeteries**

The use of land for the construction of dams and creation of lakes and reservoirs for the purpose of conservation and development of the natural resources of this state is hereby declared to be superior to all other uses; and for these purposes a district created under Article XVI, Section 59, of the Texas Constitution, has the power of eminent domain to acquire land, improvements, and other property owned and held for cemeteries or burial places that is necessary for the construction of a dam or that lies inside the area to be covered by the lake or reservoir or within 300 feet of the high-water line of the lake or reservoir. (45th Legis., Ch. 441, Sec. 1.)

§ 50.152. Condemnation Procedure

Except as otherwise provided by this subchapter, the procedure in condemnation proceedings is governed by Title 52, Revised Civil Statutes of Texas, 1925, as amended. (45th Legis., Ch. 441, Sec. 2 (part).)

§ 50.153. Notice

(a) The notice provided by Article 3264, Revised Civil Statutes of Texas, 1925, shall be served on the title owner of the land on which the cemetery is situated.

(b) General notice to persons having relatives interred in the cemetery shall be given by publication for two consecutive weeks in a newspaper published in the English language in the county in which the cemetery is situated. If there is no newspaper published in the English language in the county, notice shall be given by publication in a newspaper in the nearest county in which such a newspaper is published. (45th Legis., Ch. 441, Sec. 2 (part).)

§ 50.154. Measure of Damages

The measure of damages in these eminent domain proceedings shall be assessed as in other cases. An additional amount of damages shall be assessed to cover the cost of removing and reintering the bodies interred in the cemetery or burial place and the cost of removing and resetting the monuments or markers erected at the graves. (45th Legis., Ch. 441, Sec. 2 (part).)

§ 50.155. Disposition of Additional Assessment

The additional assessment shall be deposited in the registry of the county court and disbursed only for the purpose of removing and reintering the bodies in other cemeteries in Texas agreed on between the dis-

trict and the relatives of the deceased persons. (45th Legis., Ch. 441, Sec. 2 (part).)

§ 50.156. Designation of Cemetery for Reinterment

If in any case the district and the relatives of a deceased person cannot agree within 30 days on a cemetery for reinterment, or no relatives appear within that time, then the county judge shall designate the cemetery for reinterment. (45th Legis., Ch. 441, Sec. 2 (part).)

§ 50.157. Bond

Instead of depositing the additional assessment in the registry of the court, the district may execute a bond sufficient to cover costs of removing and reintering the bodies. The bond shall be payable to and approved by the county judge and conditioned that the bodies will be removed and reinterred as provided by this subchapter. (45th Legis., Ch. 441, Sec. 2 (part).)

[Sections 50.158–50.200 reserved for expansion]

SUBCHAPTER F. ANNEXATION

Section 50.201. Description of Annexed Land

If a district annexes land, the land to be annexed must be described by metes and bounds, or by lot and block number if there is a recorded map or plat and survey of the land. (55th Legis., Ch. 305, Sec. 1.)

[Sections 50.202–50.250 reserved for expansion]

SUBCHAPTER G. DISSOLUTION OF INACTIVE DISTRICTS

Section 50.251. Dissolution Authority

After notice and hearing, the Texas Water Rights Commission may dissolve any district which is inactive for a period of five consecutive years and has no outstanding bonded indebtedness. (61st Legis., Ch. 207, Sec. 1.)

§ 50.252. Notice of Hearing

(a) The commission shall give notice of the dissolution hearing which briefly describes the reasons for the proceeding. (61st Leg., Ch. 207, Sec. 2, sen. 1.)

(b) The notice shall be published once each week for two consecutive weeks before the day of hearing in some newspaper having general circulation in the county or counties in which the district is located. The first publication shall be 30 days before the day of the hearing. (61st Legis., Ch. 207, Sec. 2, sen. 2.)

(c) The commission shall give notice of the hearing by first class mail addressed to the directors of the district according to the last record on file with the commission. (61st Legis., Ch. 207, Sec. 2, sen. 3.)

§ 50.253. Investigation

The commission shall investigate the facts and circumstances of the district to be dissolved and the result of the investigation shall be included in a written report. (61st Legis., Ch. 207, Sec. 3.)

§ 50.254. Order of Dissolution

The commission may enter an order dissolving the district at the conclusion of the hearing if it finds that the district has performed none of the functions for which it was created for a period of five consecutive years before the day of the proceeding and that the district has no outstanding bonded indebtedness. (61st Legis., Ch. 207, Sec. 4.)

§ 50.255. Certified Copy of Order

The commission shall file a certified copy of the order of dissolution of the district in the deed records of the county or counties in which the district is located. If the particular district was created by special act of the legislature, the commission shall file a certified copy of the order of dissolution with the secretary of state. (61st Legis., Ch. 207, Sec. 5.)

§ 50.256. Appeals

(a) Appeals from a commission order dissolving a district shall be filed and heard in the district court of any of the counties in which the land is located. (61st Legis., Ch. 207, Sec. 6.)

(b) The trial on appeal shall be de novo and the substantial evidence rule shall not apply. (61st Legis., Ch. 207, Sec. 6A.)

[Sections 50.257–50.270 reserved for expansion]

SUBCHAPTER H. WATER SUPPLY CONTRACTS**Section 50.271. Definition**

As used in this subchapter, "eligible district" means any district or authority created under Article XVI, Section 59, of the Texas Constitution, and any corporation formed under the provisions of Chapter 76, Acts of the 43rd Legislature, 1st Called Session, 1933, as amended (Article 1434a, Vernon's Texas Civil Statutes). (61st Legis., Ch. 262, Sec. 1.)

§ 50.272. Authorization to Contract

Any eligible district may contract with any other eligible district for the purpose of supplying water to the other eligible district. (61st Legis., Ch. 262, Sec. 2, sen. 1.)

§ 50.273. Restriction on Water from Another Source

Any contract authorized under this subchapter may provide that the eligible district purchasing water shall not obtain water from any other source except to the extent provided in the contract. (61st Legis., Ch. 262, Sec. 2, sen. 2.)

§ 50.274. Period and Terms

The parties may determine the terms and time of the contract and may provide that it shall continue in effect until bonds specified in it and bonds issued to refund these bonds are paid. (61st Legis., Ch. 262, Sec. 2, sen. 3.)

§ 50.275. Approval by the Texas Water Rights Commission

No contract shall be final until approved by the Texas Water Rights Commission if the source of water to be provided under the provisions of

this subchapter is public surface water. (61st Legis., Ch. 262, Sec. 2, sen. 4.)

§ 50.276. Duty to Revise Rate of Compensation

Any water supply contract authorized under this subchapter shall be subject to the statutory or the contractual duty of the eligible district supplying water under it from time to time to revise the rate of compensation for water sold and services rendered by it so that the net revenues of the eligible district will at all times be sufficient to enable it to pay its operation and maintenance expense and to pay the principal of and interest on bonds secured by the contract to the extent provided in the resolution or order authorizing the bonds. (61st Legis., Ch. 262, Sec. 3, sen. 1.)

§ 50.277. Source of Payments

Payments to be made by an eligible district under a water supply contract shall be paid from the revenue of and constitute an operating expense of the eligible district's water system. (61st Legis., Ch. 262, Sec. 3, sen. 2.)

**CHAPTER 51. WATER CONTROL AND IMPROVEMENT
DISTRICTS**

SUBCHAPTER A. GENERAL PROVISIONS

Section 51.001. Definitions

In this chapter:

- (1) "District" means a water control and improvement district.
- (2) "Board" means the board of directors of a district.
- (3) "Director" means a member of the board of directors of a district.
- (4) "Commissioners court" means the commissioners court of the county in which a district or part of a district is located.
- (5) "Commission" means the Texas Water Rights Commission. (New.)

[Sections 51.002–51.010 reserved for expansion]

**SUBCHAPTER B. CREATION OF DISTRICT;
CONVERSION OF DISTRICT**

Section 51.011. Creation of District

A water control and improvement district may be created under and subject to the authority, conditions, and restrictions of either Article III, Section 52, of the Texas Constitution, or Article XVI, Section 59, of the Texas Constitution. (39th Legis., G.L., Ch. 25, Sec. 1, sen. 1.)

§ 51.012. Composition of District

(a) A district may include all or part of one or more counties, including any town, village, or municipal corporation, and may include any other political subdivision of the state or any defined district.

(b) The areas composing a district do not have to be contiguous but may consist of separate bodies of land separated by land not included in the district; however, each segregated area, before it may be included in the district, must cast a majority vote in favor of the creation of the district.

(c) No district may include territory located in more than one county except by a majority vote of the electors residing within the territory in each county sought to be included in the district. (39th Legis., G.L., Ch. 25, Sec. 4, as amended.)

§ 51.013. Petition

(a) A petition requesting creation of a district shall be signed by a majority of the persons who hold title to land in the proposed district which represents a total value of more than 50 percent of the value of all the land in the proposed district as indicated by the county tax rolls. If there are more than 50 persons holding title to land in the proposed district, the petition is sufficient if signed by 50 of them.

(b) The petition may be signed and filed in two or more copies. (39th Legis., G.L., Ch. 25, Sec. 10.)

§ 51.014. Contents of Petition

The petition shall include:

- (1) the name of the district;
- (2) the area and boundaries of the district;
- (3) the provision of the Texas Constitution under which the district is to be organized;
- (4) the purpose or purposes of the district;
- (5) a statement of the general nature of the work to be done and the necessity and feasibility of the project, with reasonable detail and definiteness to assist the court or commission passing on the petition in understanding the purpose, utility, feasibility, and need; and
- (6) a statement of the estimated cost of the project based on the information available to the person filing the petition at the time of filing. (39th Legis., G.L., Ch. 25, Sec. 11.)

§ 51.015. Place of Filing; Recording

(a) The petition shall be filed in the office of the county clerk of the county in which the district is located. If land in more than one county is included in the district, copies of the petition certified by the clerk shall be filed in the office of the county clerk of each county in which a portion of the district is located.

(b) The petition shall be recorded in a book kept for that purpose in the office of the county clerk.

(c) If more than one petition is filed and the petitions are identical except for the signature, one copy of the petition shall be recorded and all signatures on the other petitions shall be included. (39th Legis., G.L., Ch. 25, Sec. 12.)

§ 51.016. Board or Commission to Consider Creation of District

If the land to be included in a district is within one county, the creation of the district shall be considered and ordered by the commissioners court, but if the land to be included in a district is in two or more coun-

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ties, the creation of the district shall be considered and ordered by the commission. (39th Legis., G.L., Ch. 25, Sec. 13.)

§ 51.017. Single-County District: Hearing

(a) Except as provided in Subchapter H of this chapter, if a petition is filed for the creation of a district within one county, the county judge shall issue an order setting the date of hearing on the petition by the commissioners court and shall endorse the order on the petition or on a paper attached to the petition.

(b) After the order is issued, the county clerk shall issue notice of the hearing.

(c) The petition may be considered at a regular or special session of the court. (39th Legis., G.L., Ch. 25, Sec. 14.)

§ 51.018. Single-County District: Notice of Hearing

(a) The notice of hearing on the petition shall include a statement of the nature and purpose of the district and the date, time, and place of hearing.

(b) The notice shall be prepared with one original and three copies. The county clerk shall retain one copy of the notice in his files and deliver the original and two copies to the county sheriff.

(c) The sheriff shall post one copy of the notice at the courthouse door 15 days before the day of the hearing and shall publish one copy in a newspaper of general circulation in the county once a week for two consecutive weeks. The first newspaper publication shall be made at least 20 days before the day of hearing.

(d) Before the hearing, the sheriff shall make due return of service of the notice with copy and affidavit of publication attached to the original. (39th Legis., G.L., Ch. 25, Sec. 15.)

§ 51.019. Single-County District: Name

(a) A district located in one county may be named the _____ County Water Control and Improvement District, Number _____. (Insert the name of the county and proper consecutive number.)

(b) A district may be known and designated by any term descriptive of the location of the district and descriptive of the principal powers to be exercised by the district; however, the word "district" shall be included in the designation and a consecutive number shall be assigned to it if other districts of the same name have been created in the county. (39th Legis., G.L., Ch. 25, Sec. 16, sen. 2, as amended.)

§ 51.020 Single-County District: Testimony at Hearing

(a) At the hearing on the petition, any person whose land is included in or would be affected by the creation of the district may appear and contest the creation of the district and may offer testimony to show that the district:

(1) is or is not necessary;

(2) would or would not be a public utility or benefit to land in the district; and

(3) would or would not be feasible or practicable.

(b) The hearing may be adjourned from day to day. (39th Legis., G.L., Ch. 25, Sec. 17.)

§ 51.021. Single-County District: Granting or Refusing Petition

(a) The commissioners court or the commission shall grant the petition requesting the creation of a district if it appears at the hearing that:

- (1) organization of the district as requested is feasible and practicable;
- (2) the land to be included and the residents of the proposed district will be benefited by the creation of the district;
- (3) there is a public necessity or need for the district; and
- (4) the creation of the district would further the public welfare.

(b) If the commissioners court or the commission fails to make the findings required by Subsection (a) of this section, it shall refuse to grant the petition.

(c) If the commissioners court or the commission finds that any of the land sought to be included in the proposed district will not be benefited by inclusion in the district, it may exclude those lands not to be benefited and shall redefine the boundaries of the proposed district to include only the land that will receive benefits from the district.

(d) The provisions of this section do not apply to underground water conservation districts which are created under the provisions of Chapter 52 of this code. (39th Legis., G.L., Ch. 25, Sec. 19, sen. 1, 2, 3, as amended.)

§ 51.022. Single-County District: Appeal from Order of Commissioners Court

(a) If the commissioners court grants or refuses to grant the petition, any person who signed the petition or any person who appears and protests the petition and offers testimony against the creation of the district may appeal from the order of the court by giving notice of appeal in open court at the time of the entry of the order, which shall be entered on the court's docket, and by filing with the clerk of the commissioners court within five days a good and sufficient appeal bond in the amount of \$2500.

(b) The appeal bond shall be approved by the clerk of the commissioners court payable to the county judge conditioned for the prosecution of the appeal with effect and the payment of all costs incurred with the appeal in the event that the final decree of the court is against the appellant. (39th Legis., G.L., Ch. 25, Sec. 18, sen. 1, as amended.)

§ 51.023. Single-County District: Record on Appeal; Notice of Appeal

(a) On completion of an appeal as provided in Section 51.022 of this code, the clerk of the commissioners court shall, within 10 days, prepare a certified transcript of all orders entered by the commissioners court and transmit them with all original documents, processes, and returns on processes to the clerk of the district court to which the appeal is taken.

(b) All persons shall be charged with notice of the appeal without notice or service of notice. No person who failed to appear by petition, in person, or by attorney in the commissioners court may be permitted to intervene in the district court trial. (39th Legis., G.L., Ch. 25, Sec. 18, sen. 2, 3, as amended.)

§ 51.024. Single-County District: Hearing in District Court; Procedure

(a) The district court, either in term time or in vacation time, shall schedule the appeal for hearing with all reasonable dispatch, and the

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judge shall give the appeal precedence over all causes which are not of like character.

(b) In the proceeding in the district court, formal pleadings shall not be required but, with the court's permission, may be filed.

(c) The trial and decision shall be by the court without the intervention of a jury, and the hearing shall be conducted as though the jurisdiction of the district court were original jurisdiction.

(d) The following matters may be contested in the district court:

(1) all matters which were or might have been presented in the commissioners court;

(2) the validity of the act under which the district is proposed to be created; and

(3) the regularity of all previous proceedings. (39th Legis., G.L., Ch. 25, Sec. 18, sen. 4, 5, 6 (part), as amended.)

§ 51.025. Single-County District: Judgment of District Court; Appeal

(a) In the appeal, the district court shall apply to the determination its full powers to the end that substantial justice may be done.

(b) An appeal from the judgment of the district court may be taken as in other civil causes, but appeals filed under Section 51.022 of this code shall be given precedence on the docket of any higher court over all causes which are not of similar public concern.

(c) The final judgment of the district court, or other court to which an appeal may be prosecuted, shall be certified and transmitted to the clerk of the commissioners court with all original documents and processes which were transmitted from the commissioners court to the district court on appeal.

(d) The commissioners court shall enter its order on the petition to conform to the decree entered by the court of final jurisdiction and shall enter other and further orders as may be required by law to execute the intent of the certified decree. (39th Legis., G.L., Ch. 25, Sec. 18, sen. 6 (part), 7, 8, as amended.)

§ 51.026. Single-County District: Appointment of Directors; Bond

(a) If the commissioners court grants a petition for creation of a district, it shall appoint five directors who shall serve until their successors are elected or appointed in accordance with law.

(b) Each director shall, within 15 days after appointment, file his official bond in the office of the county clerk, and the county clerk shall present the bond to the county judge for approval. The county judge shall pass on the bond and approve it, if it is proper and sufficient, or disapprove it and shall endorse his action on the bond and return it to the county clerk.

(c) If approved, the bond of a director shall be recorded in a record kept for that purpose in the office of the county clerk, but if a bond is not approved, a new bond may be furnished within 10 days after disapproval.

(d) If any director appointed under this section fails to qualify, the commissioners court shall appoint another person to replace him.

(e) Each director appointed under this section shall take the oath of office as provided by Section 51.078 of this code. (39th Legis., G.L., Ch. 25, Sec. 20.)

§ 51.027. Multi-County District: Hearing by Commission

(a) The commission shall have exclusive jurisdiction and power to hear and determine all petitions for creation of a district which will include land or property located in two or more counties.

(b) The orders of the commission concerning the organization of a district shall be final, unless an appeal is taken from the orders as provided in this subchapter. (39th Legis., G.L., Ch. 25, Sec. 21, sen. 1, as amended.)

§ 51.028. Multi-County District: Notice of Hearing

(a) When a petition is filed, the commission shall give notice of a hearing in the manner provided in Section 51.018 of this code.

(b) Further, the notice shall be posted at the courthouse door, on the bulletin board used for posting legal notices, in each county in which the district may be located.

(c) The notice shall be published in one or more newspapers with general circulation in the area of the proposed district. (39th Legis., G.L., Ch. 25, Sec. 21, sen. 2, as amended.)

§ 51.029. Multi-County District: Deposit Accompanying Petition

(a) A petition to create a multi-county district shall be accompanied by a deposit of \$250 for the use of the state, and no part of the deposit may be returned except as provided in Subsection (c) of this section.

(b) The deposit shall be placed with the state treasurer to be held in trust outside the state treasury until the commission either grants or refuses the petition. At the time of action on the petition, the commission shall direct the state treasurer to transfer the deposit into the general revenue fund.

(c) If at any time before the hearing on the petition, the petitioners withdraw the petition, and only in that event, the commission shall direct the refund of the deposit to petitioners or their attorney of record. The receipt of the attorney of record shall be sufficient receipt for the return of the money. (39th Legis., G.L., Ch. 25, Sec. 21, sen. 3, 4, as amended.)

§ 51.030. Multi-County District: Hearing of Commission; Procedure

(a) The commission shall hear, consider, and determine on the issues a petition filed under Section 51.028 of this code.

(b) At the hearing on the petition, the commission shall be governed by the provisions of Section 51.021 of this code. (39th Legis., G.L., Ch. 25, Sec. 21, sen. 5, as amended.)

§ 51.031. Multi-County District: Appeal from Commission Decision

(a) When the commission grants or refuses a petition, any person who comes within the requirements specified in Sections 51.020-51.025 of this code may prosecute an appeal from the judgment of the commission under Sections 51.022-51.025 of this code.

(b) The appeal may be taken to any district court in any county in which part of the proposed district is located or to a district court in Travis County.

(c) The time within which an appeal bond may be approved and filed is 15 days after the entry of the final order by the commission.

(d) On the perfection of the appeal, the appellant shall pay the actual

cost of the transcript of the record, which will be assessed as part of the costs incurred on the appeal.

(e) Whenever practicable, the original documents and processes with the returns attached shall be sent to the district court. (39th Legis., G.L., Ch. 25, Sec. 21, sen. 6, 7, as amended.)

§ 51.032. Multi-County District: Appointment of Directors by Commission; Bond

(a) If the commission grants the petition for creation of the district, it shall appoint five directors, who shall serve until their successors are elected or appointed.

(b) A certified copy of the order of the commission granting a petition and naming the directors shall be filed in the office of the county clerk of each county in which a portion of the district is located.

(c) Each director named in the order shall, within 15 days after appointment, file his official bond in the office of the county clerk of the county of his residence. The county clerk shall present the bond to the county judge for approval.

(d) The county judge shall act on each bond in the manner provided in Section 51.026 of this code.

(e) If any director appointed under this section fails to qualify, the commissioners court of the county in which he lives shall appoint some qualified person to replace him. (39th Legis., G.L., Ch. 25, Sec. 22.)

§ 51.033. Order of Confirmation Election; Holding of Election; Preliminary Bond Proposition

(a) Within 30 days after the date of the first meeting of the board and before the district may incur any indebtedness other than for its operation and the holding of an election, the board shall issue and publish an order calling an election in the district to confirm the creation of the district.

(b) The ballots for the election shall be printed to provide for voting for or against the proposition: "Confirmation of the district."

(c) The election shall be held in the manner provided for other elections.

(d) At the election, the proposition for the issuance of preliminary bonds may also be submitted to the district electors. Separate ballot boxes shall be provided for the different classifications of voters. (39th Legis., G.L., Ch. 25, Sec. 23, sen. 2, 3, 4, 5, as amended.)

§ 51.034. Result of Election; Entry of Order

(a) If the majority of those voting at an election held under Section 51.033 of this code vote in favor of the confirmation of the district, the district is confirmed and ratified, but if the majority of those voting at the election vote against the confirmation of the district, the district shall have no further authority, except that any debts incurred shall be paid and the organization of the district shall be maintained until all the debts are paid.

(b) If the majority of those voting at the election favor the confirmation of the district and the result is declared, the board shall enter in their minutes an order substantially as follows: "An election having been held in _____ district on the _____ day of _____ for the purpose of voting on the confirmation of the creation of the

district and the results of the election resulted in a vote of _____ votes for confirmation and _____ votes against confirmation of the district, the result is declared in favor of the creation of the district. The district is therefore declared to have been legally organized with the following boundaries: (Describe boundaries)."

(c) The order shall be signed by a majority of the board and acknowledged by the president of the board. The order shall be filed for record in the office of the county clerk of any county in which the district is situated and recorded in the deed records. (39th Legis., G.L., Ch. 25, Sec. 24.)

§ 51.035. Inclusion of City, Town, or Municipal Corporation in District

(a) No city, town, or municipal corporation may be included within any district created under this chapter unless the proposition for the creation of the district has been adopted by a majority of the electors in the city, town, or municipal corporation.

(b) Any municipal corporation included within a district shall be a separate voting district, and the ballots cast within the municipal corporation shall be counted and canvassed separately from the remainder of the district.

(c) No district which includes a city, town, or municipal corporation may include land outside of the municipal corporation unless the election to confirm and ratify the creation of the district favors the creation of the district independent of the vote within the municipal corporation. (39th Legis., G.L., Ch. 25, Sec. 115, sen. 1, 2, 3.)

§ 51.036. Confirmation Election in District Including Land in more than One County

No district, the major portion of which is located in one county, may be organized to include land in another county unless the election held in the other county to confirm and ratify the creation of the district is adopted by those voting in the other county. (39th Legis., G.L., Ch. 25, Sec. 115, sen. 4.)

§ 51.037. Exclusion of Parts of District; Dissolution

(a) If any portion of a district governed by Sections 51.035 and 51.036 of this code, votes against the creation of the district and the remainder of the district votes for the creation, the district is confirmed and ratified in those portions of the district voting for the creation, and the district is composed only of those portions.

(b) The excluded portions of the district shall be excluded from all debts and obligations incurred after the election; however, all land and property included in the original district shall be subject to the payment of taxes for the payment of all debts and obligations, including organization expenses, incurred while it was a part of the district.

(c) If a district is created and portions of the proposed district are excluded by the vote in those portions, 10 percent of the voters in the district may file with the board a petition asking for a new election on the issue. A new election shall be ordered and held for the remaining portion of the district or the district organization may be dissolved by order of the board and a new district formed.

(d) A petition requesting a new election shall be filed within 30 days after the day on which the result of the election is canvassed and declared by the board. (39th Legis., G.L., Ch. 25, Sec. 115, sen. 5, 6, 7.)

§ 51.038. Municipal Districts

(a) A district operating under the provisions of this chapter may, by order of the board entered in the minutes, become a "municipal district."

(b) To become a municipal district, a district shall have a taxing power unlimited as to rate and amount and may not have outstanding or authorized bond obligations exceeding 20 percent of the established assessable, taxable evaluation of the real estate subject to the district's taxing power. In computing outstanding or authorized bond obligations, the bond obligations which may be retired by the district out of revenues from sources other than the income from district taxation shall not be included.

(c) To be eligible to become a municipal district, a district:

(1) shall embrace the total area of a municipal corporation which has bond obligations which may be declared eligible for purchase by savings banks and trusts under the acts of the State of New York, and which has plans designed for furnishing, in whole or in part, a water supply, sanitation facilities, flood protection, or other service inuring to the general benefit of the inhabitants of the embraced city; or

(2) shall have a population, according to the last preceding federal census, of at least 30,000 persons and have established assessable real estate values of at least \$50 million. (39th Legis., G.L., Ch. 25, Sec. 19a (part), as added.)

§ 51.039. Bonds of Municipal Districts

(a) A district operating under Section 51.038 of this code may issue bonds which bear the legend "municipal bond."

(b) Bonds issued in compliance with this section and with Section 51.038 of this code shall be eligible for investment of the funds of:

(1) state banks, trust funds, and savings banks;

(2) insurance companies, for the purpose of holding the bonds as legal reserves against liability under their contracts for insurance or for investment of an accumulated surplus;

(3) counties, cities, towns, and other political bodies, for the purpose of investing the accumulated sinking fund money of those bodies;

(4) the State Board of Education and the regents of The University of Texas System; and

(5) trustees, receivers, administrators, and guardians administering funds under orders of a court.

(c) Municipal bonds issued under this section, when in the lawful possession of any person, shall be lawful reserves, where reserves are required by law.

(d) The bonds are eligible for deposit with the banking and insurance departments of Texas in all cases where deposit, pledge, or security is required by law.

(e) The bonds shall be lawful security for any bank designated as an official depository for a political body under the laws of Texas. (39th Legis., G.L., Ch. 25, Sec. 19a (part), as added.)

§ 51.040. Conversion of Certain Districts into Districts Operating under this Chapter

(a) Any water improvement district, levee improvement district, or irrigation district created under Article III, Section 52, of the Texas Con-

stitution, or under Article XVI, Section 59, of the Texas Constitution, or any conservation and reclamation district created under Article XVI, Section 59, of the Texas Constitution, may be converted to a district operating under this chapter.

(b) The governing body of a district which desires to convert into a district operating under this chapter shall adopt and enter in the minutes of the governing body a resolution declaring that, in its judgment, conversion into a water control and improvement district operating under this chapter and under Article XVI, Section 59, of the Texas Constitution, would serve the best interest of the district and would be a benefit to the land and property included in the district. (39th Legis., G.L., Ch. 25, Sec. 143, sen. 1, 2, as amended.)

§ 51.041. Conversion of District; Notice

(a) Notice of the adoption of a resolution under Section 51.040 of this code shall be given by publishing the resolution in a newspaper with general circulation in the county or counties in which the district is located.

(b) The notice shall be published once a week for two consecutive weeks with the first publication not less than 14 full days before the time set for a hearing.

(c) The notice shall:

(1) state the time and place of the hearing;

(2) set out the resolution in full; and

(3) notify all interested persons to appear and offer testimony for or against the proposal contained in the resolution. (39th Legis., G.L., Ch. 25, Sec. 143, sen. 3, 4, 5, 6, 7, as amended.)

§ 51.042. Conversion of District; Findings

(a) If, on a hearing, the governing body of the district finds that conversion of the district into one operating under this chapter would serve the best interest of the district and would be a benefit to the land and property included in the district, it shall enter an order making this finding and the district shall become a district operating under this chapter.

(b) If the governing body finds that the conversion of the district would not serve the best interest of the district and would not be a benefit to the land and property included in the district, it shall enter an order against conversion of the district into one operating under this chapter.

(c) The findings of the governing body of a district entered under this section are final and not subject to appeal or review. (39th Legis., G.L., Ch. 25, Sec. 143, sen. 8, 9, 10, as amended.)

§ 51.043. Effect of Conversion

A district which converts into a district operating under this chapter shall:

(1) be constituted a water control and improvement district operating under and governed by this chapter;

(2) be a conservation and reclamation district under the provisions of Article XVI, Section 59, of the Texas Constitution; and

(3) have and may exercise all the powers, authority, functions, and privileges provided in this chapter in the same manner and to the same extent as if the district had been created under this chapter. (39th Legis., G.L., Ch. 25, Sec. 143, sen. 11, as amended.)

§ 51.044. Reservation of Certain Powers for Converted Districts

(a) Any water improvement district, water control and preservation district, fresh water supply district, levee improvement district, drainage district, or navigation district, after conversion under Section 51.040 of this code, may continue to exercise all necessary specific powers under any specific conditions provided by the chapter of this code under which the district was operating before conversion.

(b) At the time of making the order of conversion, the governing body shall specify in the order the specific provisions of the chapter of the code under which the district had been operating which are to be preserved and made applicable to the operations of the district after conversion into a district operating under this chapter.

(c) A reservation of a former power under Subsection (a) of this section may be made only if this chapter does not make specific provision concerning a matter necessary to the effectual operation of the converted district.

(d) In all cases in which this chapter does make specific provision, this chapter shall, after conversion, control the operations and procedure of the converted district. (39th Legis., G.L., Ch. 25, Sec. 143a, as added.)

§ 51.045. Conversion of a District Operating under this Chapter to a Fresh Water Supply District

(a) Any district operating under this chapter may be converted into a district operating as a fresh water supply district under Chapter 53 of this code in the manner provided in this section.

(b) The governing body of a district desiring to convert under this section shall adopt a resolution declaring that, in its judgment, conversion of the district into one operating under Chapter 53 of this code and under the provisions of Article XVI, Section 59, of the Texas Constitution, would be in the best interest of the district and would be a benefit to the land and property in the district.

(c) The resolution shall provide for a public hearing on the proposition at a date to be fixed by the governing body not less than 15 days nor more than 30 days from the date of the resolution.

(d) Notice of the hearing shall be published once a week for two consecutive weeks in a newspaper with general circulation in the area in which the district is located. The first publication shall be not less than 14 days before the time set for the hearing. The notice shall contain a copy of the resolution or a substantial statement of the matters contained in the resolution.

(e) At the hearing, any person may appear and offer testimony and other evidence.

(f) If, on hearing, the board finds that the conversion of the district operating under this chapter into one operating under Chapter 53 of this code would be in the best interest of the district and would be a benefit to the land and property in the district, it shall enter an order declaring the district to be one operating under Chapter 53 of this code, and thereafter, the district shall operate under the provisions of Chapter 53.

(g) If the board finds that conversion would not be in the best interest of the district and would not be a benefit to the land and property in the district, it shall enter its order to that effect and the district shall continue to operate under this chapter.

(h) The findings of the governing body shall be final and not subject to review or appeal.

(i) Nothing in this section may be construed to authorize the impairment of any existing contract. (47th Legis., G.L., Ch. 129, Sec. 7.)

§ 51.046. Organization of District to Conduct Preliminary Surveys

A district may be organized for the sole purpose of conducting preliminary surveys to determine whether or not improvements are needed and what improvements, if any, are required to promote the public welfare. (39th Legis., G.L., Ch. 25, Sec. 3, sen. 2, as amended.)

§ 51.047. Creation of Master District

A master district may be created under this chapter and may include all or any part of the area of one or more districts created and operating under the provisions of this chapter or Chapters 53, 55, 56, 57, 60-63 of this code or Chapter 3, Title 128, Revised Civil Statutes of Texas, 1925. (39th Legis., G.L., Ch. 25, Sec. 3, sen. 3 (part), as amended.)

§ 51.048. Purposes of Master District

(a) A master district may be created to conduct preliminary surveys and to develop a plan for the control and use of the water of any given stream, so that the improvements on one part of a watershed will be mechanically and economically related to all other improvements on the stream or its watershed.

(b) A master district also may be created to enable districts to pool their resources when necessary to economically:

(1) make preliminary surveys;

(2) adopt a plan to coordinate the plants, improvements, and facilities of the several constituent districts;

(3) provide the improvements and facilities proposed to be constructed and furnished by the master district;

(4) provide improvements for the common benefit of the several districts;

(5) enable the districts jointly to make purchases; or

(6) maintain or operate works for the common benefit of the several districts. (39th Legis., G.L., Ch. 25, Sec. 3, sen. 3 (part), as amended.)

§ 51.049. Master District; Procedure

(a) The Commission shall have exclusive jurisdiction to hear and determine petitions for the creation of a master district.

(b) Each district composing part of a master district shall, for all purposes of an election, constitute a separate voting unit. No existing district may be included in a master district unless the proposal is approved by a majority of the qualified electors of the constituent district voting in the election. (39th Legis., G.L., Ch. 25, Sec. 3, sen. 3 (part), as amended.)

§ 51.050. Master District; Directors

A master district may have directors which number five, seven, or any other uneven number up to 21.

(b)^{*} The number shall be determined at the time of the creation of the district and may thereafter be changed by the directors of the district in a manner to conform to the requirements for equitable representation for the various areas of the master district.

^{*} No subsec. (a) in enrolled bill.

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(c) The election and qualification of the directors shall, where applicable, be controlled as provided by the other provisions of this chapter. (39th Legis., G.L., Ch. 25, Sec. 3, sen. 4, 5, as amended.)

§ 51.051. Master District Governed by Chapter

The provisions of this chapter, where applicable, shall govern a master district in:

- (1) the procedure for its creation;
- (2) the conduct of its affairs; and
- (3) its powers. (39th Legis., G.L., Ch. 25, Sec. 3, sen. 6, as amended.)

§ 51.052. City, Town, or Municipal Corporation Created as a District

(a) Any city, town, or municipal corporation may have the benefit and powers provided in this chapter under the Texas Constitution and may aid any district in the construction and operation of any improvements to the extent that the improvements may be an advantage to the municipal corporation.

(b) The area included in any city, town, or municipal corporation may be organized into and constituted a district operating under this chapter with all the powers, authority, and privileges provided by Article XVI, Section 59, of the Texas Constitution. The district shall be governed by this chapter and by an ordinance duly enacted by the governing body of the city, town, or municipal corporation.

(c) The ordinance required by Subsection (b) of this section shall appoint five directors for the district. Each director's bond shall be filed with and approved by the governing body of the municipal corporation.

(d) On the qualification of the directors, the district shall be completely organized without the necessity of an election. The district shall thereafter be governed by the provisions of this chapter. (39th Legis., G.L., Ch. 25, Sec. 135, sen. 1, 2, 3.)

[Sections 51.053–51.070 reserved for expansion]

SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

Section 51.071. Board of Directors

The governing body of a district is the board of directors, which shall consist of five directors. (39th Legis., G.L., Ch. 25, Sec. 36, sen. 1, 3 (part).)

§ 51.072. Qualifications for Director

To be qualified for election as a director, a person must be a resident of the state, own land subject to taxation in the district, and be at least 21 years of age. (39th Legis., G.L., Ch. 25, Sec. 36, sen. 2.)

§ 51.073. Election of Directors; Term of Office

(a) An election shall be held in the district on the second Tuesday in January following the creation of the district to elect five directors.

(b) The three directors receiving the highest number of votes shall serve as directors for two years, and the other two directors shall serve for one year.

(c) At the second election of directors, two directors shall be elected to serve for two years.

(d) After the second election of directors, an election shall be held each year with two directors elected one year and three the next year in continuing sequence. (39th Legis., G.L., Ch. 25, Sec. 37, as amended.)

§ 51.074. Election to Replace Directors Temporarily Appointed by Commission

(a) A district organized by order of the commission shall elect five directors at the election which is held to confirm the creation of the district. The names of the five appointed directors shall be placed on the ballot, with a blank space left to write in the names of other persons.

(b) If the appointed directors are elected, they shall be confirmed without the necessity of furnishing new bonds and shall continue in office.

(c) If any of the appointed directors are not elected, the person or persons elected in their places must furnish bond, which shall be approved in the manner provided for directors first appointed. (39th Legis., G.L., Ch. 25, Sec. 25.)

§ 51.075. Application to Get on Ballot

A candidate for the office of director or other elective office may file an application with the secretary of the board to have his name printed on the election ballot. The application must be signed by the applicant or by at least 10 qualified electors of the district and must be filed at least 20 days before the date of the election. (39th Legis., G.L., Ch. 25, Sec. 145.)

§ 51.076. Selection of Directors in Certain Districts

(a) In a district created after June 18, 1967, with boundaries coterminous with the boundaries of a county, the commissioners court may provide in the order granting the petition for creation that the directors are to be selected either as provided in Section 51.073 of this code or by the "commissioners precinct method," which provides for the election of two directors from each commissioners precinct in the county and the election of one director from the county at large. (39th Legis., G.L., Ch. 25, Sec. 37a, subsec. (a), (b), as added.)

(b) If the commissioners court provides for the commissioners precinct method, it may appoint two qualified directors from each commissioners precinct and one director from the county at large, who shall serve until their successors are elected and have qualified. Except for the provisions of this subsection, Section 51.026 of this code applies to the appointment of the initial directors. (39th Legis., G.L., Ch. 25, Sec. 37a, subsec. (g), as added.)

(c) The directors appointed by the commissioners court under Subsection (b) of this section shall order an election in the district on the second Tuesday in January following the creation of the district. The two persons receiving the highest number of votes in each precinct are the directors from that precinct, and the person receiving the highest number of votes from the county at large is the director at large. (39th Legis., G.L., Ch. 25, Sec. 37a, subsec. (c), as added.)

(d) Of the two persons elected from each commissioners precinct, the person who receives the highest number of votes in each precinct shall

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serve for two years and until his successor is elected and has qualified, and the person receiving the second highest number of votes in each precinct shall serve for one year and until his successor is elected and has qualified. The person who is elected from the county at large shall serve for two years and until his successor is elected and has qualified. At each annual election after the first annual election, a person who is elected director shall serve for two years and until his successor is elected and has qualified. (39th Legis., G.L., Ch. 25, Sec. 37a, subsec. (d), as added.)

(e) To be qualified for election as a director from a commissioners precinct, a person must be 21 years of age, a citizen of the state, and own land subject to taxation in the commissioners precinct from which he is elected. (39th Legis., G.L., Ch. 25, Sec. 37a, subsec. (e), as added.)

(f) To be qualified for election as a director from the county at large, a person must possess the qualifications specified in Section 51.072 of this code. (39th Legis., G.L., Ch. 25, Sec. 37a, subsec. (f), as added.)

(g) If a vacancy occurs in the office of director between regular elections, the vacancy shall be filled for the unexpired term at a special election in the director's precinct. The special election shall be called by a majority of the remaining members of the board within 8 days after the vacancy occurs and to be held not more than 40 days after the vacancy occurs. (39th Legis., G.L., Ch. 25, Sec. 37a, subsec. (h), as added.)

(h) Except as otherwise provided in this section, all laws relating to the election and qualification of directors of a district shall govern and control the election and qualification of directors selected by the commissioners precinct method whether the precinct election is regular or special. (39th Legis., G.L., Ch. 25, Sec. 37a, subsec. (i), as added.)

§ 51.077. Organization of Board

After a district is created and the directors have qualified, the board shall meet, elect a president, vice president, and secretary, and begin the discharge of its duties. (39th Legis., G.L., Ch. 25, Sec. 23, sen. 1, as amended.)

§ 51.078. Director's Oath

Each director shall take the oath of office prescribed by law for county commissioners. (39th Legis., G.L., Ch. 25, Sec. 39, sen. 2.)

§ 51.079. Director's Bond

(a) Each director shall execute a good and sufficient bond for \$5,000, payable to the district, conditioned on the faithful performance of his duties.

(b) After the creation of the district and the qualification of the first board of directors, all bonds required to be given by a director or other officer of the district are subject to the approval of the board.

(c) The county clerk of the county in which the director lives shall record each bond in the bond records of the county. The bond also shall be recorded in a bond record in the district office and filed for safekeeping in the depository of the district. (39th Legis., G.L., Ch. 25, Sec. 39, sen. 1, 3, 4.)

§ 51.080. Compensation of Directors

(a) A director is entitled to receive compensation of not more than \$25 a day for each day he actually spends performing his duties as a director, but the fees shall not be more than \$100 for any one month.

(b) Before a director may receive compensation for his services, he shall file with the secretary a verified statement showing the number of days actually spent in the service of the district. The statement shall be filed on the last day of the month, or as soon after that time as possible. (39th Legis., G.L., Ch. 25, Sec. 43, as amended.)

§ 51.081. Officers; Quorum

(a) The president is the chief executive officer of the district and presides at all meetings of the board. The vice president shall act as president in case of the absence or disability of the president. The secretary is secretary of the board and is responsible for seeing that all records and books of the district are properly kept. In the case of the absence or inability of the secretary to act, the board shall select a secretary pro tem.

(b) Three directors constitute a quorum for any meeting, and a concurrence of three is sufficient for transacting any business of the district except letting construction contracts and drawing warrants on the depository for payment of the contracts, which require the concurrence and signature of four directors. Warrants to pay current expenses, salaries, and accounts may be drawn by an officer or employee designated by standing order entered in the minutes when these accounts have been contracted and ordered paid by the directors. (39th Legis., G.L., Ch. 25, Sec. 41, and Sec. 42, sen. 1, 2, 3, 4.)

§ 51.082. Vacancies

(a) All vacancies on the board and in other offices shall be filled for the unexpired term by appointment of the board.

(b) If the number of directors is reduced to fewer than three, the vacancies shall be filled by special election ordered by the remaining members of the board. If the director or directors fail to order an election within 15 days after the vacancies occur, any voter or creditor of the district may petition the district judge of any judicial district in which land of the district is located, and the judge may order the election, fixing the date, ordering the publication of notice by any county sheriff, and naming the officers to hold the election.

(c) The returns of the election ordered by a district judge shall be made to and filed in the office of the clerk of the court and he shall declare the result of the election.

(d) The officers elected shall furnish bond and qualify in the manner provided in this chapter for directors first appointed for a district on its creation. (39th Legis., G.L., Ch. 25, Sec. 38.)

§ 51.083. General Manager

The board may employ a general manager and give him full authority in the management and operation of the affairs of the district subject only to the orders of the board. (39th Legis., G.L., Ch. 25, Sec. 46, sen. 1.)

§ 51.084. Director as Manager

A director may be employed as general manager with compensation fixed by the other four directors. When so employed, he shall continue to perform the duties of a director. (39th Legis., G.L., Ch. 25, Sec. 36, sen. 7.)

§ 51.085. District Tax Assessor and Collector

The board may appoint one person to the office of tax assessor and collector, or it may order an election to fill that office. (39th Legis., G.L., Ch. 25, Sec. 54, sen. 1, 2, as amended.)

§ 51.086. Tax Assessor and Collector's Bond

(a) The tax assessor and collector shall execute a good and sufficient bond for \$5,000, signed by at least two sufficient sureties or a surety company and approved by the board. The bond shall be conditioned on the faithful performance of his duties and on his paying to the depository all money or other things of value that he receives in his capacity as tax assessor and collector.

(b) The board may require the tax assessor and collector to give additional bonds or security or a larger bond at any time. (39th Legis., G.L., Ch. 25, Sec. 54, sen. 3, 4, as amended.)

§ 51.087. Deputy Tax Assessor and Collector

(a) The board may appoint one or more deputies to assist the tax assessor and collector for a period not to exceed one year.

(b) Each deputy may be required to furnish a bond with similar conditions to the bond required by the tax assessor and collector. (39th Legis., G.L., Ch. 25, Sec. 54, sen. 5, as amended.)

§ 51.088. Compensation of Tax Assessor and Collector and Deputies

The board shall fix the compensation of the tax assessor and collector and each deputy. (39th Legis., G.L., Ch. 25, Sec. 54, sen. 6, as amended.)

§ 51.089. Additional Duties

The board may require the tax assessor and collector to perform duties other than those specified in this chapter. (39th Legis., G.L., Ch. 25, Sec. 54, sen. 7, as amended.)

§ 51.090. Bonds of Officers of a District Acting as Fiscal Agent or Collecting Money for United States

(a) If a district is appointed fiscal agent for the United States or if a district is authorized to make collections of money for the United States in connection with a federal reclamation project, each director and officer of the district including the tax assessor and collector shall execute an additional bond in the amount required by the secretary of the interior, conditioned on the faithful discharge of his respective office and on the faithful discharge by the district of its duties as fiscal or other agent of the United States under its appointment or authorization.

(b) The additional bonds shall be approved, recorded, and filed as provided in this chapter for other official bonds.

(c) Suit may be brought on the bonds by the United States or any person injured by the failure of the officer or the district to fully, promptly,

and completely perform their respective duties. (39th Legis., G.L., Ch. 25, Sec. 54, sen. 8, 9, 10, as amended.)

§ 51.091. Employees of the District

The board shall employ all persons necessary for the proper handling of the business and operation of the district, its plant and improvements. It may employ attorneys, bookkeepers, engineers, laborers, and a civil engineer, who shall be an officer of the district, to be known as "District Engineer." (39th Legis., G.L., Ch. 25, Sec. 36, sen. 4, 5, and Sec. 52, sen. 1.)

§ 51.092. Employees' Compensation and Terms of Employment

The board shall determine the term of office and compensation to be paid the general manager and all employees. All employees may be removed by the board. (39th Legis., G.L., Ch. 25, Sec. 46, sen. 2.)

§ 51.093. Officers' and Employees' Bond

(a) The board shall require an officer or employee who collects, pays, or handles any funds of the district to furnish good and sufficient bond, payable to the district, for a sufficient amount to safeguard the district. The bond shall be conditioned on the faithful performance of his duties and on accounting for all funds and property of the district coming into his hands.

(b) The bond may be signed by individual sureties or by surety companies authorized to do business in the state. (39th Legis., G.L., Ch. 25, Sec. 40, 47.)

§ 51.094. District Office

The board shall maintain a regular office for conducting the business of the district. The office shall be located inside the district, or if the district does not include towns which are within or adjoining the territory included in the district, it may be located in a nearby town which is best suited for the transaction of the business. (39th Legis., G.L., Ch. 25, Sec. 44, sen. 3.)

§ 51.095. Meetings

(a) The board shall hold regular meetings at the district office on the first Monday in February, May, August, and November of each year at 10 a. m. and may hold meetings at other times when required for the business of the district.

(b) Any person owning taxable property in the district may attend any meeting of the board and may present in an orderly manner matters for the board's consideration. (39th Legis., G.L., Ch. 25, Sec. 42, sen. 5, 6.)

§ 51.096. Minutes and Records of the District

The board shall keep a true and complete account of all its meetings and proceedings, and shall preserve its minutes, contracts, records, notices, accounts, receipts, and records of all kinds in a fireproof vault or safe. All minutes, contracts, records, notices, accounts, receipts, and other records are the property of the district and subject to public inspection. (39th Legis., G.L., Ch. 25, Sec. 44, sen. 1, 2.)

§ 51.097. Recording Proceedings

All proceedings of the board and all decrees and orders of any court affecting the creation, boundaries, or validity of the district must be recorded in a special record book kept for that purpose in the office of the county clerk of each county in which the district is located. This recording is in addition to other recording provisions in this chapter. (39th Legis., G.L., Ch. 25, Sec. 147b, as added.)

§ 51.098. Contracts

District contracts shall be executed by the board in the name of the district. (39th Legis., G.L., Ch. 25, Sec. 36, sen. 3 (part), and Sec. 51, sen. 3.)

§ 51.099. Suits

A district may sue and be sued in the courts of this state in the name of the district by and through its board. All courts shall take judicial notice of the creation of the district and of its boundaries. (39th Legis., G.L., Ch. 25, Sec. 51, sen. 1, 2, and Sec. 137, sen. 2.)

§ 51.100. Payment of Judgment Against District

Any court in the state rendering judgment for debt against a district may order the board to levy, assess, and collect taxes or assessments to pay the judgment. (39th Legis., G.L., Ch. 25, Sec. 136.)

§ 51.101. Actions Contesting District, Bonds, or Contracts; Suit by Attorney General

(a) Except as provided in Subsection (b) of this section, and as provided in Sections 51.021–51.025 of this code, no suit may be instituted in any court of this state contesting:

- (1) the validity of the creation and boundaries of a district created under this chapter;
- (2) any bonds or other obligations created under this chapter; or
- (3) the validity or the authorization of a contract with the United States by the district.

(b) The matters listed in Subsection (a) of this section may be judicially inquired into at any time and determined in any suit brought by the State of Texas, through the attorney general, on his own motion or on the motion of any person affected by the existence or plans of the district. The action shall be brought on good cause shown, except where otherwise provided by other provisions of this chapter or by the Texas Constitution. (39th Legis., G.L., Ch. 25, Sec. 25a, as added.)

[Sections 51.102–51.120 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES

Section 51.121. Purposes of District

(a) A water control and improvement district organized under the provisions of Article III, Section 52, of the Texas Constitution, may provide for:

- (1) the improvement of rivers, creeks, and streams to prevent overflows, to permit navigation or irrigation, or to aid in these purposes; or

(2) the construction and maintenance of pools, lakes, reservoirs, dams, canals, and waterways for irrigation, drainage, or navigation, or to aid these purposes. (39th Legis., G.L., Ch. 25, Sec. 2.)

(b) A water control and improvement district organized under the provisions of Article XVI, Section 59, of the Texas Constitution, may provide for:

(1) the control, storage, preservation, and distribution of its water and floodwater and the water of its rivers and streams for irrigation, power, and all other useful purposes;

(2) the reclamation and irrigation of its arid, semiarid, and other land which needs irrigation;

(3) the reclamation, drainage, conservation, and development of its forests, water, and hydroelectric power;

(4) the navigation of its coastal and inland water;

(5) the control, abatement, and change of any shortage or harmful excess of water;

(6) the protection, preservation, and restoration of the purity and sanitary condition of water within the state; and

(7) the preservation and conservation of all natural resources of the state.

(c) The purposes stated in Subsection (b) of this section may be accomplished by any practical means. (39th Legis., G.L., Ch. 25, Sec. 3, sen. 1, as amended.)

§ 51.122. Powers of District

The district has the functions, powers, authority, rights, and duties which will permit the accomplishment of the purposes for which it was created, including the investigation and, in case a plan for improvements is adopted, the construction, maintenance, and operation of necessary improvements, plants, works, and facilities, and the acquisition of water rights and all other properties, land, tenements, materials, borrow and waste ground, easements, rights-of-way, and everything considered necessary, incident, or helpful to accomplish by any practicable mechanical means any one or more of the objects authorized for the district, subject only to the restrictions imposed by the constitutions of Texas or the United States. A district also may acquire property deemed necessary for the extension or enlargement of the plant, works, improvements, or service of the district. (39th Legis., G.L., Ch. 25, Sec. 7, sen. 1 (part), as amended; Sec. 48, sen. 1, as amended; and Sec. 125, sen. 1 (part), 2 (part), 3 (part), as amended.)

§ 51.123. Acquisition of Property

(a) A district may acquire the land material, borrow and waste ground, rights-of-way, easements, or other property by gift, grant, purchase, or condemnation.

(b) The district may acquire either the fee simple title to or an easement on all land, public or private, located inside or outside the district.

(c) The district may require the title to or an easement on property other than land held in fee. (39th Legis., G.L., Ch. 25, Sec. 125, sen. 1 (part), 2 (part), as amended.)

§ 51.124. Planning

The board may make investigations and plans necessary to the operation of the district and the construction of improvements. It may employ

engineers, attorneys, bond experts, and other agents and employees required to perform this duty. (39th Legis., G.L., Ch. 25, Sec. 31, sen. 1, 2.)

§ 51.125. Construction of Improvements

A district may construct all works and improvements necessary:

- (1) for the prevention of floods;
- (2) for the irrigation of land in the district;
- (3) for the drainage of land in the district, including drainage ditches or other facilities for drainage;
- (4) for the construction of levees to protect the land in the district from overflow;
- (5) to alter land elevations where correction is needed; and
- (6) to supply water for municipal uses, domestic uses, power and commercial purposes, and all other beneficial uses or controls. (39th Legis., G.L., Ch. 25, Sec. 48, sen. 2, as amended, and Sec. 124.)

§ 51.126. Purchase of Machinery and Supplies

The board may purchase machinery, materials, and supplies needed in the construction, operation, maintenance, and repair of district improvements. (39th Legis., G.L., Ch. 25, Sec. 36, sen. 6.)

§ 51.127. Adopting Rules and Regulations

A district may adopt and make known reasonable regulations to:

- (1) secure and maintain safe, sanitary, and adequate plumbing installations, connections, and appurtenances as subsidiary parts of sanitary sewer systems;
- (2) preserve the sanitary condition of all water controlled by the district;
- (3) prevent waste or the unauthorized use of water; and
- (4) regulate residence, hunting, fishing, boating, and camping, and all recreational and business privileges on any body or stream of water, or any body of land, or any easement owned or controlled by the district. (39th Legis., G.L., Ch. 25, Sec. 7, sen. 1 (part), as amended.)

§ 51.128. Effect of Rules and Regulations

After the required publication, rules and regulations adopted by the district under Section 51.127 of this code shall be recognized by the courts as if they were penal ordinances of a city. (39th Legis., G.L., Ch. 25, Sec. 7, sen. 4 (part), as amended.)

§ 51.129. Publication of Rules and Regulations

(a) The board shall publish once a week for two consecutive weeks a substantive statement of the rules or regulations and the penalty for their violation in one or more newspapers with general circulation in the area in which the property of the district is located.

(b) The substantive statement shall be as condensed as is possible to intelligently explain the purpose to be accomplished or the act forbidden by the rule or regulation.

(c) The notice must advise that breach of the regulations will subject the violator to a penalty and that the full text of the regulation is on file in the principal office of the district where it may be read by any interested person.

(d) Any number of regulations may be included in one notice. (39th Legis., G.L., Ch. 25, Sec. 7, sen. 3 (part), as amended.)

§ 51.130. Effective Date of Rules and Regulations

The penalty for violation of a rule or regulation is not effective and enforceable until five days after the publication of the notice. Five days after the publication, the published regulation shall be in effect and ignorance of it is not a defense for a prosecution for the enforcement of the penalty. (39th Legis., G.L., Ch. 25, Sec. 7, sen. 3 (part), 4 (part), as amended.)

§ 51.131. Penalties for Violation of Regulation

(a) The board may set reasonable penalties for the breach of any regulation of the district, which shall not exceed fines of more than \$200 or imprisonment for more than 30 days or both.

(b) These penalties shall be in addition to any other penalties provided by the laws of the state and may be enforced by complaints filed in the appropriate court of jurisdiction in the county in which the district's principal office is located. (39th Legis., G.L., Ch. 25, Sec. 7, sen. 2, 3 (part), as amended.)

§ 51.132. Enforcement by Peace Officers

A district may employ its own peace officers with power to:

(1) make arrests when necessary to prevent or abate the commission of any offense against the regulations of the district and against the laws of the state when the offense or threatened offense occurs on any land, water, or easement owned or controlled by the district; or

(2) make an arrest in case of an offense involving injury or detriment to any property owned or controlled by the district. (39th Legis., G.L., Ch. 25, Sec. 7, sen. 5, as amended.)

§ 51.133. Constructing Bridges and Culverts Across and Over County and Public Roads

The district shall build necessary bridges and culverts across and over district canals, laterals, and ditches which cross county or public roads. Funds of the district shall be used to construct the bridges and culverts. (39th Legis., G.L., Ch. 25, Sec. 123.)

§ 51.134. Constructing Culverts and Bridges Across and Under Railroad Tracks, Roadways, and Interurban or Street Railways

(a) The district, at its own expense, may build necessary bridges and culverts across or under any railroad tracks or roadways of any railroad or any interurban, or street railway to enable the district to construct and maintain any canal, lateral, ditch, or other improvement of the district.

(b) Before the district builds a bridge or culvert, the board shall deliver written notice to the local agent, superintendent, roadmaster, or owner. The railroad company or its owner shall have 60 days in which to build the bridge at its own expense and according to its own plans.

(c) The canal, culvert, ditch, or structure shall be constructed of sufficient size and proper plan to serve the purpose for which it is intended. (39th Legis., G.L., Ch. 25, Sec. 122.)

§ 51.135. Contracting for Toll Bridges and Ferry Service

(a) A district may make contracts with responsible persons for the construction and operation of toll bridges over the district's water for not more than 20 years or for ferry service on or over the district's water for not more than 10 years.

(b) The contract shall set reasonable compensation to be charged for service by the facility and shall require adequate bond or bonds from the person with whom it enters into the contract, payable to the district, on the conditions and in the amount which the board considers necessary.

(c) The contracts may provide for forfeiture of the franchise for a failure of the licensee to render adequate public service. (39th Legis., G.L., Ch. 25, Sec. 7, sen. 1 (part), as amended.)

§ 51.136. Right to Enter Land

The board, the district engineer, and the employees of the district may enter any land inside or outside the district to make surveys for reservoirs, canals, rights-of-way, dams, or other contemplated improvements and to attend to any business of the district. (39th Legis., G.L., Ch. 25, Sec. 49.)

§ 51.137. Power to Contract

The district may enter into a contract for the use by another of its water, power, facilities, or service, either inside or outside the district, except that a contract may not be made which impairs the ability of the district to serve lawful demands for service within the district. (39th Legis., G.L., Ch. 25, Sec. 125, sen. 3 (part), as amended.)

§ 51.138. Investigation and Report of Engineer

(a) The district engineer shall make a thorough study and investigation of all plans of the district and make and file in the district office a report on all plans for construction of plants and improvements.

(b) The board shall provide and keep a book in the district office, to be known as the "Engineer's Record," in which all reports and recommendations made by the district engineer shall be recorded. The "Engineer's Record" shall be open to public inspection.

(c) A contract for more than \$20,000 may not be made by the district unless the district has a district engineer who has made a proper study and report on it. (39th Legis., G.L., Ch. 25, Sec. 52, sen. 2, 3, 4.)

§ 51.139. Contracts for Materials, Machinery, Construction, Etc., for more than \$10,000

(a) With the exception of a district operating under a contract with the United States, the board shall let a contract for more than \$10,000 for the purchase of materials, machinery, and all things to constitute the plant, works, facilities, and improvements of the district or for construction as specified in Subsections (b)–(d) of this section.

(b) The board shall advertise the letting of a contract, including the general conditions, time, and place of opening of sealed bids. The notice shall be published in one or more newspapers with general circulation in the state, and one or more newspapers published in each county in which part of the district is located to give general circulation in the district. If there are more than four counties in the district, notice may be published in any newspaper with general circulation in the district. If no

newspaper is published in the county or counties in which the district is located, publication in one or more newspapers with general circulation in the state is sufficient. The notice shall be published once a week for three consecutive weeks prior to the date that the bids are opened, and the first publication shall be at least 21 days before the opening of sealed bids.

(c) A contract may cover all the improvements to be provided by the district, or the various elements of the improvements may be segregated for the purpose of receiving bids and awarding contracts.

(d) A contract may provide for the payment of a total sum which is the completed cost of the improvement or may be based on bids to cover cost of units of the various elements entering into the work as estimated and approximately specified by the district's engineers.

(e) A contract may be let and awarded in any other form or composite of forms and to any responsible person or persons which, in the board's judgment, will be most advantageous to the district and result in the best and most economical completion of the district's proposed plant, improvements, facilities, and works.

(f) A contract is not valid if the total sum required to fully complete the proposed plant, works, facilities, and improvements, as stipulated by the district's adopted plans, exceeds the total sum estimated by the district's engineer in his plans, adopted by the district prior to the election for the authorization of bonds sufficient to pay the completed cost of all elements of the proposed works, other than the cost of land, easements, and other property necessary to be acquired under the provisions of Subchapter F of this chapter. (39th Legis., G.L., Ch. 25, Sec. 117, as amended.)

§ 51.140. Construction Bids

(a) A person who desires to bid on proposed construction work shall submit to the board a written sealed bid together with a certified check on a responsible bank in the state for at least one percent of the total amount of the bid.

(b) Bids shall be opened at the same time, and the board may reject any or all of the bids.

(c) If the successful bidder fails or refuses to enter into a proper contract with the district or fails or refuses to furnish the bond required by law, he forfeits the amount of the certified check which accompanied his bid, and the bank certifying the check is liable for it to the district. (39th Legis., Ch. 25, Sec. 118, sen. 2, 3, 4.)

§ 51.141. Reports Furnished to Prospective Bidders

The board shall furnish to any person who desires to bid on construction work, and who requests it in writing, a copy of the engineer's report which shows the work to be done and all details of it. The board may charge for each copy of the engineer's report an amount sufficient to cover the cost of making the copy. (39th Legis., G.L., Ch. 25, Sec. 118, sen. 1.)

§ 51.142. Provisions of Contracts for Construction Work

(a) Any contract made by the board for construction work shall conform to the provisions of this chapter, and the provisions of this chapter will be considered to be a part of the contract and shall prevail when the provisions of this chapter and the contract are in conflict.

(b) The contract shall contain, or have attached to it, the specifications, plans, and details for work included in the contract, and all work shall be done in accordance with these plans and specifications under the supervision of the board and the district engineer. (39th Legis., G.L., Ch. 25, Sec. 119, sen. 1, 3.)

§ 51.143. Executing and Recording Construction Contract

(a) Contracts for construction work shall be in writing and signed by the board and the contractor.

(b) A copy of the contract shall be filed with the county clerk, and the county clerk shall record the contract in a book kept for that purpose.

(c) The contract shall be available for public inspection. (39th Legis., G.L., Ch. 25, Sec. 119, sen. 2.)

§ 51.144. Contractor's Bond

(a) The contractor shall execute a bond in an amount determined by the board, not to exceed the contract price, payable to the district, conditioned on the faithful performance of the obligations, agreements, and covenants of the contract.

(b) The bond shall provide that if the contractor defaults on the contract, he will pay to the district all damages sustained as a result of the default or complete the contract according to its terms.

(c) All sureties signing the bond are bound by it to the same extent that the principal is bound, regardless of the technical defenses.

(d) The bond shall be deposited in the district depository, and a true record of it shall be entered in a record book in the district office. (39th Legis., G.L., Ch. 25, Sec. 121.)

§ 51.145. Inspection of and Reports on Construction Work

(a) The board shall inspect construction work being done for the district under contract to determine whether or not the contract is being fulfilled and shall have the construction work inspected by the district engineer and his assistants. (39th Legis., G.L., Ch. 25, Sec. 120, sen. 2 (part).)

(b) During the progress of the construction work, the district engineer shall submit to the board detailed written reports showing whether or not the contractor is complying with the contract, and when the work is completed, the district engineer shall submit to the board a final detailed report showing whether or not the contractor has fully complied with the contract. (39th Legis., G.L., Ch. 25, Sec. 119, sen. 4.)

§ 51.146. Payment for Construction Work

When construction work is completed according to the terms of the contract, the board shall draw a warrant on the district depository to pay any balance due on the contract. (39th Legis., G.L., Ch. 25, Sec. 120, sen. 2 (part).)

§ 51.147. Partial Payment of Construction Work

The board may pay for a construction contract in partial payments as the work progresses, but partial payments shall not be more than 85 percent of the amount due at the time of the partial payment as shown by the report of the district engineer. (39th Legis., G.L., Ch. 25, Sec. 120, sen. 1.)

§ 51.148. Contracts by Districts in Counties over 500,000

(a) A district in a county having a population of more than 500,000, according to the last preceding federal census, may make necessary contracts for construction and repairs authorized by law.

(b) If the amount of the proposed contract is more than \$1,000, competitive bids on uniform written specifications shall be asked after advertisement one time in a newspaper with general circulation in the county or in the district. The advertisement shall be published at least five days before opening the bids. Contracts shall be written and shall be awarded to the lowest and best bidder. A surety bond shall be required in a sum equal to the amount of the contract to insure faithful performance of the contract and the payment of labor and materials.

(c) If the amount of the proposed contract is more than \$150 but less than \$1,000, bids may be received and contracts awarded without advertisement. Contracts shall be written and shall be awarded to the lowest and best bidder. A surety bond is not required.

(d) Purchases may be made or contracts entered into on emergency requisitions if the amount of the purchase is not more than \$150. The provisions of Articles 1667-1673, Revised Civil Statutes of Texas, 1925, as amended, shall apply to the accounting of the district and the record of purchases, except as otherwise provided in this section. (47th Legis., Ch. 130, Sec. 2.)

§ 51.149. Contribution to Construction by another District

If it serves its best interest, a district may contribute to the construction of any improvement by another similar district which benefits the contributing district. The board may contract with the other district and determine the contribution in proportion to the cost of the construction. (39th Legis., G.L., Ch. 25, Sec. 127.)

§ 51.150. Joint Ownership Contracts

(a) Two or more districts may enter into a contract to jointly own and construct irrigation works and reservoirs, levees, flood-control retarding systems, drainage systems, and all other plants, works, and improvements which they are authorized to own or construct. The contract may include provisions for joint construction and operation, but the terms and conditions may not conflict with the laws providing for the creation and operation of the districts.

(b) The parties joining in the contract shall have the terms of their agreement incorporated into a written or printed contract. (39th Legis., G.L., Ch. 25, Sec. 128, sen. 1, 5 (part), 8, as amended.)

§ 51.151. Election to Approve a Joint Ownership and Construction Contract

(a) Before the districts may be bound by a joint ownership and construction contract made under Section 51.150 of this code, an election to approve the contract must be held in each of the districts.

(b) The election to approve the contract shall be held on the same day in each district.

(c) Notice of the election shall be the same as notice of the election for the creation of a district under this chapter.

(d) At least 15 days before the day of the election, a copy of the contract must be filed in the office of each of the districts and be made

available for public inspection, and each district must furnish a copy of the contract to any elector who appears at the office and requests a copy.

(e) If a majority of the electors in each district approve the contract at the election, the contract is adopted and is binding.

(f) The contract may be amended in the manner provided for adopting the original contract. (39th Legis., G.L., Ch. 25, Sec. 128, sen. 2, 3, 4, 5 (part), 9, as amended.)

§ 51.152. General Manager for Joint Projects

The boards of the districts which are parties to a joint ownership and construction contract may employ a general manager for the joint project. The duties of the general manager may be included in the provisions of the joint contract. (39th Legis., G.L., Ch. 25, Sec. 128, sen. 7, as amended.)

§ 51.153. Transactions in District Names under Joint Ownership and Construction Contract

All bids, bonds, contracts, and other transactions made under a joint ownership and construction contract may be made in the names of the districts which are parties to the contract. (39th Legis., G.L., Ch. 25, Sec. 128, sen. 6 (part), as amended.)

§ 51.154. Joint Projects under Joint Ownership and Construction Contracts

(a) When districts operating under a joint ownership and construction contract plan to construct any improvements, the districts may call jointly for bids on these improvements.

(b) The bids may be opened and considered at the office of either of the districts which are parties to the contract.

(c) The boards shall approve the award of the contract and the contractor's bond. The boards may meet for this purpose either at an office outside the districts or at an office established for transaction of all business of the joint project. (39th Legis., G.L., Ch. 25, Sec. 128, sen. 6 (part), as amended.)

§ 51.155. Additional Powers of Districts under Joint Ownership and Construction Contracts

Districts which are acting under a joint ownership and construction contract may exercise jointly all powers which may be exercised by a single district. (39th Legis., G.L., Ch. 25, Sec. 128, sen. 6 (part), as amended.)

§ 51.156. Contract with the United States

(a) The board of a district organized under the provisions of Article XVI, Section 59, of the Texas Constitution to irrigate arid land may contract with the United States for the investigation, construction, extension, operation, and maintenance of any federal reclamation project of benefit to the district and authorized under the National Reclamation Act of 1902, as amended.

(b) The board may contract to secure a district water supply from the federal reclamation project and to pay to the United States the agreed cost of it in the form of construction charges, operation and maintenance charges, and water rental charges, as shown by the contract and in ac

cordance with the terms and conditions of the national reclamation law. (39th Legis., G.L., Ch. 25, Sec. 53, sen. 1, as amended.)

§ 51.157. Construction Charges under a Contract with the United States

The construction charges under a contract with the United States may include the cost of drainage and flood-control works necessary to control floods or to maintain the irrigability of district land, and the cost of incidental electric power and municipal water service which the water supply of the reclamation project makes feasible. (39th Legis., G.L., Ch. 25, Sec. 53, sen. 2, as amended.)

§ 51.158. Election to Approve a Contract with the United States

(a) The electors of the district shall vote to approve every contract involving the payment of construction charges to the United States. The provisions of this chapter relating to the election to approve the validation of district bonds shall be followed, including the prosecution of an action in court to determine the validity of the contract.

(b) The notice of election shall state the maximum amount, exclusive of operation and maintenance charges, water rental charges, interest, and penalties, payable by the district to the United States under the contract.

(c) The ballot shall be printed to provide for voting for or against the proposition: "The contract with the United States and levy of taxes to make payments under the contract." This is the only proposition which may appear on the ballot. (39th Legis., G.L., Ch. 25, Sec. 53, sen. 3, 4, as amended.)

§ 51.159. Conveying Property to the United States

A district may convey any property to the United States necessary for the construction, operation, or maintenance of federal reclamation works used or to be used for the benefit of the district. (39th Legis., G.L., Ch. 25, Sec. 53, sen. 5, as amended, and Sec. 125, sen. 4, as amended.)

§ 51.160. Engineering Data Unnecessary

If a district contracts with the United States under the provisions of Section 51.155 of this code for use by the district of federal reclamation works, the district need not prepare or file any engineering data for the construction of the works. (39th Legis., G.L., Ch. 25, Sec. 53, sen. 6, as amended.)

§ 51.161. Consent of United States to Alter District's Boundaries

Until all money has been paid by the district which is due to the United States under a contract relating to a federal reclamation project, the United States must consent to any change in the boundaries of the district. (39th Legis., G.L., Ch. 25, Sec. 53, sen. 7, as amended.)

§ 51.162. Taxes Levied by District under Contract with the United States

(a) A district which enters into a contract with the United States shall levy annually sufficient taxes to provide payment of all installments required by the contract.

(b) The board may apportion benefits and levy and collect taxes on the benefit basis instead of the ad valorem basis with the approval of the district electors.

(c) The board may pay construction charges when provided by contract on the basis of the average gross annual acre income of the land of the district or designated divisions or subdivisions of the district. The secretary of the interior shall determine the annual gross acre income. (39th Legis., G.L., Ch. 25, Sec. 53, sen. 8, as amended.)

§ 51.163. Assessments for Contracts with the United States

The board shall levy annually sufficient assessments to collect the money required to pay all the district's obligations in full when due regardless of any delinquency in payment of assessments by any tract of land. If collections in any year are insufficient to pay the obligations of the district, the levy shall be increased sufficiently the following year to cover the deficit. (39th Legis., G.L., Ch. 25, Sec. 53, sen. 9, 10, as amended.)

§ 51.164. Duration of Annual Levies for Contracts with the United States

The board shall continue annual levies for payment of construction charges each year against each tract of land in the district even though construction charges apportioned against other tracts of land in the district may be paid sooner or later. (39th Legis., G.L., Ch. 25, Sec. 53, sen. 11, as amended.)

§ 51.165. Superiority of Lien to Secure Contract with the United States

The lien against district land created by a contract with the United States shall be superior to the lien created by any district bonds approved subsequent to the date of the contract with the United States. (39th Legis., G.L., Ch. 25, Sec. 53, sen. 12, as amended.)

§ 51.166. District's Authority to Solicit Cooperation, Donations, and Contributions from other Agencies

A district organized under the provisions of this chapter may solicit cooperation, donations, and contributions from the United States, the state, or any other state or nation; any county, municipality, water improvement district, water control and improvement district, drainage district, or any other political subdivision of the state; or any person, co-partnership, corporation, or association. (39th Legis., G.L., Ch. 25, Sec. 141, sen. 1 (part), as amended.)

§ 51.167. Expense of Procuring Cooperation and Contributions from Other Agencies

A district may incur reasonable expense to procure cooperation under Section 51.166 of this code in adding to the area of the district or with contributions to the cost of improvements made by the district. The contributions may be either a percentage of cost or a definite annual sum. (39th Legis., G.L., Ch. 25, Sec. 141, sen. 1 (part), as amended.)

§ 51.168. Authority of Contributor

(a) Any water improvement district, water control and improvement district, levee improvement district, county, city, town, or other political subdivision of the state may contract to contribute to the cost of the construction of drainage, flood-control or water-supply improvements, or the changing of land elevations which need correction. The improvements to

be constructed may be outside the contributing district, municipality, or other political subdivision of the state, and may be located outside the state or the United States.

(b) The works may be constructed by any agency.

(c) The contribution shall be proportionate to the benefit which the contributor will derive from the proposed improvements. (39th Legis., G.L., Ch. 25, Sec. 141, sen. 2, 3, as amended.)

§ 51.169. Issuance of Bonds by Contributor

(a) The contract may provide for the issuance of bonds by the contributor and for direct payment from the proceeds of the bonds to contractors on the estimates of the engineer for the contributor.

(b) Before issuing bonds, a contributing political subdivision shall submit the contract for contribution to its electors for approval and for authority to issue the bonds, fix a lien to secure the bonds, and levy, assess, and collect taxes to retire the bonds. The procedure by a contributing political subdivision of the state shall conform to the applicable law under which the political subdivision was organized and authorized to create bonded indebtedness.

(c) The disposition of the proceeds of the bonds shall conform to the approved contract of contribution. (39th Legis., G.L., Ch. 25, Sec. 141, sen. 4, 5, 6, 7, as amended.)

§ 51.170. Annual Tax by Contributor

(a) The contract for contribution may provide that instead of issuing bonds the contributor may levy, assess, and collect an annual tax in a specific sum. The levy or assessment is a lien on the property subject to the contributor's taxing power.

(b) The contributor shall collect the tax at its own expense and pay it annually to the district to which the contribution is to be made. The district shall hold the annual payment as a trust fund and annually apply it to the bonds issued by it to provide funds for the construction of the improvements to which the contribution is made.

(c) The contributor shall submit the contract of contribution to its electors for approval and for authority to levy and assess a sufficient tax to meet the annual payments fixed in the contract. The election for the approval of the contract and the authorized taxes for the fulfillment of the contract shall conform to appropriate law under which the contributing political subdivision was organized and authorized to create bonded indebtedness.

(d) Payment of the annual sums of contribution shall conform to the contract of contribution. (39th Legis., G.L., Ch. 25, Sec. 141, sen. 8, 9, 10, 11, 12, as amended.)

§ 51.171. Contributions from Unappropriated or Available Funds of Contributor

(a) If the proposed contributor has an unappropriated fund or a fund which is not required for actual use even though otherwise appropriated, the fund may be withdrawn from the project which does not need it and may be applied to pay contributions to the cost of the improvements considered to be a benefit to the contributor but to be constructed by another agency or jointly by the contributor and another agency.

(b) The board of the contributing political subdivision may contract for contributions and contribute from an unappropriated or available

fund without submitting the contract and contributions to a vote of the electors of the contributor. However, the contributions shall not be made if they impair the ability of the contributor to meet any outstanding obligation or to adequately and economically discharge the contributor's duty to its electorate or constituency. (39th Legis., G.L., Ch. 25, Sec. 141, sen. 13, 14, 15, as amended.)

§ 51.172. Liability on Contracts of Acquired Irrigation System

If a district acquires an established irrigation system which has contracted to supply water to others and the holders of the contracts or the lands entitled to service of water are not within the district, the contracts and duties shall be performed by the district in the same manner and to the same extent that any other purchaser of the system would be bound. (39th Legis., G.L., Ch. 25, Sec. 50.)

§ 51.173. Authority to Lease Irrigation System Serving the District

(a) The board, by resolution, may lease all or part of any irrigation system serving all or part of the district, including distribution laterals, trunk or transmission canals, pumping plants, intakes, and all usual or necessary appurtenances. The board's resolution will specify the term of the lease, which may not be more than 40 years.

(b) The board may lease property located partly outside the boundaries of the district and may sell surplus water to other districts and to other consumers. (39th Legis., G.L., Ch. 25, Sec. 111(a), sen. 1, 6, as added.)

§ 51.174. Covenants and Agreements Included in Lease

(a) The lease shall expressly state that the sums payable under the terms of the lease and the lease itself shall not constitute an indebtedness or pledge of the general credit of the district within the meaning of any constitutional or statutory limitation of indebtedness. The lease shall contain a statement that payments due under it are not payable from any funds raised or to be raised by taxation.

(b) The lease may contain covenants and agreements which are not inconsistent with the provisions of this code which authorize the lease for:

- (1) the management and operation of the leased properties;
- (2) the imposition and collection of charges for water;
- (3) the disposition of the proceeds of charges;
- (4) the insurance, protection, and maintenance of the leased properties;
- (5) the creation of other obligations payable from the revenues derived from the operation of the leased properties;
- (6) the keeping of books and records by the district; and
- (7) other pertinent provisions which the board considers desirable

to assure the payment of amounts due under the lease. (39th Legis., G.L., Ch. 25, Sec. 111(a), sen. 7, 8, as added.)

§ 51.175. Revenue for Payment of Lease Rental

(a) All money due the lessor under the lease shall be payable solely from the revenue derived by the district from the sale of water supplied through the leased system.

(b) The board shall set and collect charges for the water supplied through the leased properties to produce sufficient revenue at all times to allow for delinquencies and to pay promptly all rental payments be-

coming due under the terms of the lease. The board may agree to deposit this money in a separate fund as a first charge on the gross revenue received each year from sales of water, and which shall not be used for any other purpose.

(c) The board may agree in the lease to pay all expenses of operating and maintaining the leased properties from the fund provided by the board each year for the maintenance and operation expenses of the district so that the gross revenue from sale of water will be available exclusively for payment of rentals until the amount required for rentals each year is paid into the separate rental fund.

(d) If the board includes this agreement in the lease, the board shall provide for the payment of sums into the maintenance fund from sources other than the remaining portions of the gross revenue from the sale of water not required to pay rentals which are sufficient each year to pay all expenses of operating the district and maintaining and operating its properties and facilities, including the leased properties. (39th Legis., G.L., Ch. 25, Sec. 111(a), sen. 2, 3, 4, 5, as added.)

§ 51.176. Receiver for Leased Irrigation System

(a) If the district defaults in the payments due under a lease, the lessor may petition a court of competent jurisdiction to appoint a receiver for the leased properties.

(b) The receiver shall operate the properties and collect and distribute the revenue according to the terms of the lease and the direction of the court.

(c) The receiver has the same rights and powers as the board in its operation of the leased properties. (39th Legis., G.L., Ch. 25, Sec. 111(a), sen. 9, as added.)

§ 51.177. Joint Lease by Two or More Districts

The boards of two or more districts may adopt resolutions to enter into a joint lease under the provisions of Section 51.173 of this code. The joint lease shall specify clearly the respective rights and liabilities of the districts and shall be subject to all the provisions of Sections 51.173-176 of this code. (39th Legis., G.L., Ch. 25, Sec. 111(a), sen. 10, as added.)

§ 51.178. Authority to Acquire Irrigation System Subject to Mortgage

A district may acquire by gift, grant, or purchase any part of an irrigation system serving the district which is subject to a mortgage or encumbrance. The mortgage or encumbrance shall not be assumed by the district and shall not be an indebtedness of the district but shall constitute solely a charge on the encumbered property and the revenue from it. (39th Legis., G.L., Ch. 25, Sec. 111(b), sen. 1, as added.)

§ 51.179. Revenue for Payment of Mortgage

(a) The board may determine conclusively by resolution whether the mortgage or encumbrance represents all or part of the cost of the acquired property and constitutes a purchase money lien on the property.

(b) The board may contract to use and pledge its revenue derived solely from the sale of water and services supplied through the acquired properties for the payment of a purchase money lien.

(c) The board also may use revenue from taxation or from the issuance and sale of bonds to pay all or part of the amount due under the encum-

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brance if a majority of the electors of the district voting at an election on this proposition approve its use. (39th Legis., G.L., Ch. 25, Sec. 111(b), sen. 2, 3, as added.)

§ 51.180. Election to Approve Revenue for Payment of Mortgage

(a) If tax and bond revenue is pledged to pay amount due under the encumbrance, the district must hold an election and receive the approval of the electors.

(b) An election to approve the use of tax and bond revenue shall be held in the same manner and with the same voters' qualifications as provided for elections on the issuance of the bonds of the district. (39th Legis., G.L., Ch. 25, Sec. 111(b), sen. 4, 5, as added.)

§ 51.181. Joint Acquisition of Mortgaged System by Two or More Districts

(a) Two or more districts jointly may acquire by gift, grant, or purchase any part of an irrigation system serving the districts subject to a mortgage or encumbrances in the same manner that a single district may acquire the system.

(b) In the proceedings authorizing the acquisition, the boards of the respective districts shall define clearly the respective rights, interest, and liability of the districts in the acquired property and in the mortgage or encumbrance. (39th Legis., G.L., Ch. 25, Sec. 111(b), sen. 6, as added.)

§ 51.182. Authority to Lease Facilities to Water Customers

(a) A district may lease to any person, firm, or corporation which is a bona fide water customer of the district any of its river pump stations, conveyance canals, off-channel reservoirs, reservoir pump stations, water mains, water treatment plants, or other facilities used in connection with them. The lease may include any of the district's land which is appropriate to the utilization of the leased facilities, including but not limited to land acquired by eminent domain.

(b) The board and the lessee shall agree on the form of the lease and its terms, conditions, provisions, and stipulations; however, the duration of the lease shall not be longer than the duration of the water contract between the district and the lessee under the primary term of the water contract and any renewal or extension of it.

(c) After a lease to a water customer is authorized by the board, the lease shall be executed by the president or vice president of the board and attested by the secretary. The lease is valid and effective without any other requirement or prerequisite by the district. (55th Legis., 2nd C.S., Ch. 17, Sec. 1, 2, 3.)

§ 51.183. Expense of Relocation of Facilities

If a district created after August 27, 1961, requires the relocation, raising, lowering, rerouting, or change in grade or alteration in the construction of any railroad, electric transmission, telegraph or telephone lines, conduits, poles, properties, or facilities, or pipelines in the exercise of the power of eminent domain or police power or any other power, all the relocation, raising, lowering, rerouting, or changes in grade or alteration of construction shall be the sole expense of the district. The term "sole expense" means the actual cost of relocation, raising, lowering, rerouting, or change in grade or alteration of construction to provide comparable

replacement without enhancement of facilities, after deducting the net salvage value derived from the old facility. This section does not apply to projects under construction or financed or for which bonds were voted and approved by a district on August 27, 1961, unless the acts of the district authorizing the construction or financing contained the provisions of this section. (39th Legis., G.L., Ch. 25, Sec. 123a, as added.)

§ 51.184. Preference in Use of Water

(a) The board may award the use of district water in the following order of preference and superiority:

- (1) domestic and municipal use;
- (2) industrial use, other than the development of hydroelectric power;
- (3) irrigation;
- (4) development of hydroelectric power;
- (5) pleasure and recreation.

(b) The board may withdraw water from an inferior use and appropriate the water to a superior use when required for the welfare of the district.

(c) The board must use the condemnation procedures in Subchapter F of this chapter for a withdrawal or diversion of the use of water which affects a vested right. (39th Legis., G.L., Ch. 25, Sec. 4a, as added.)

§ 51.185. Suit to Protect Water Rights

The board may institute and maintain any suit or suits to protect the water supply or other rights of the district, to prevent any unlawful interference with the water supply or other rights of the district, or to prevent a diversion of its water supply by others. (39th Legis., G.L., Ch. 25, Sec. 137, sen. 1.)

§ 51.186. Transfer of Water Right

If there is land in a district which has a water right from a source of supply acquired by the district but the land is difficult or impracticable to irrigate from that source of supply, the district may allow transfer of the water right to other land which is adjacent to the district. The adjacent land may be admitted to the district with the same right of water service as the land from which the water was transferred. (39th Legis., G.L., Ch. 25, Sec. 77.)

§ 51.187. Selling Waterpower Privileges

(a) The district may enter into a contract to sell waterpower privileges if power can be generated from water flowing from the district's reservoirs or within its canal system.

(b) The sale of waterpower privileges may not interfere with the district's obligation to furnish an adequate supply of water for the purpose for which the district was organized and for municipal purposes in districts which furnish water for municipal purposes. (39th Legis., G.L., Ch. 25, Sec. 138, sen. 2, as amended.)

§ 51.188. Selling Surplus Water

The district may sell any surplus district water for use in irrigation or for domestic or commercial uses to any person who owns or uses land in

the vicinity of the district or to other districts which include land in the same vicinity. (39th Legis., G.L., Ch. 25, Sec. 138, sen. 1 (part), as amended.)

§ 51.189. Pumping Water to another District

If the board considers it advisable, it may contract to pump for or supply another district any water in which the other district has a right. The board shall provide the terms of the contract. (39th Legis., G.L., Ch. 25, Sec. 138, sen. 1 (part), as amended.)

§ 51.190. Obtaining Topographic Maps and Data

The Texas Water Development Board shall furnish to a district topographic maps and data concerning all projects for the control of floods undertaken by the district and all projects for the storage of water or creation of reservoirs undertaken by the district. (39th Legis., G.L., Ch. 25, Sec. 142.)

§ 51.191. Sale of Property not Required for District's Plans

The board may sell at a public or private sale any property or land owned by the district which is not required to carry out the plans of the district. (39th Legis., G.L., Ch. 25, Sec. 125, sen. 5 (part), as amended.)

§ 51.192. Notice of Sale of Property not Required for District's Plans

Before either a public or a private sale of property not required for the district's plans, the district shall give notice of the intent to sell by publishing notice once a week for two consecutive weeks in one or more newspapers with general circulation in the district. (39th Legis., G.L., Ch. 25, Sec. 125, sen. 8, as amended.)

§ 51.193. Use of Proceeds from Sale of Property not Required for District's Plans

(a) If the district has outstanding bonds, the proceeds of the sale of property not required for the district's plans shall be applied to retire outstanding emergency warrants, if any, issued to protect ultimate liability of the district in condemnation proceedings as provided in this chapter and the remainder, if any, to be placed in the interest and sinking fund account provided for the retirement of outstanding bonds of the district.

(b) If the district does not have money available from other sources to complete the plans for which its construction work and its bonds were authorized, the board may use the proceeds derived from the sale of the property or land not required to carry out the plans of the district to complete the work included in its plans for improvements to the degree required, and any excess of the proceeds shall be applied as provided in Subdivisions (1) and (2) of this section. (39th Legis., G.L., Ch. 25, Sec. 125, sen. 5 (part), 6, as amended.)

§ 51.194. Sale of Property not Acquired to Carry Out the Plans of the District

The board may sell property bid in by it at any sale under foreclosure of its tax lien or of its lien for charges or assessments, or any property acquired by it other than for the purpose of carrying out the plans of the district, without formally determining that the property is not required to carry out the plans of the district, without giving notice of the intent of

the district to sell the property, and without applying the proceeds of the sale as provided in Section 51.192 of this code. (39th Legis., G.L., Ch. 25, Sec. 125, sen. 7, as added.)

[Sections 51.195–51.220 reserved for expansion]

SUBCHAPTER E. ELECTION PROVISIONS

Section 51.221. Election Procedure

(a) The board shall provide for holding elections and giving notice and shall appoint officers to hold the election at the time the election is ordered.

(b) The officers for the election shall include a presiding judge and an assistant judge and two clerks. More clerks may be appointed if necessary.

(c) The board shall name the polling places, and if more than one polling place is necessary, the board shall divide the district into election precincts. The polling places may be changed from time to time as required. (39th Legis., G.L., Ch. 25, Sec. 27.)

§ 51.222. Notice of Election

(a) Notice of an election shall be given by order of the board.

(b) The notice shall be signed by the president and secretary of the board and shall state:

- (1) the purpose of the election;
- (2) the propositions and officers to be voted on;
- (3) the polling places; and
- (4) the names of the election officers.

(c) The notice shall be published once a week for three consecutive weeks in a newspaper with general circulation published in the county or counties in which the district is located. If no newspapers are published in these counties, the notice shall be published in the county nearest to the district. The first publication shall be not less than 21 days nor more than 35 days before the day of the election. (39th Legis., G.L., Ch. 25, Sec. 28.)

§ 51.223. Preparation and Delivery of Returns

(a) The election officers shall make and deliver the election returns in triplicate. One copy shall be retained by the election judge; one copy shall be delivered to the president of the board, and one copy shall be delivered to the secretary of the board.

(b) The election officers shall give to the newspapers and to other persons requesting them the returns of the election in that box at the time the returns are made.

(c) The ballot boxes and other election records and supplies shall be delivered to the secretary of the board at the district office.

(d) The ballot boxes containing the voted or mutilated ballots shall be preserved for one year subject to the order of any court in which a contest of the election is filed. (39th Legis., G.L., Ch. 25, Sec. 29, sen. 1, 2, 3, 4.)

§ 51.224. Canvass of Returns

The board shall meet and canvass the returns of the election not less than five nor more than seven days after the day of the election. If the returns cannot be canvassed within seven days after the day of the election, they shall be canvassed as soon as possible after that time. (39th Legis., G.L., Ch. 25, Sec. 29, sen. 5.)

[Sections 51.225–51.230 reserved for expansion]

SUBCHAPTER F. EMINENT DOMAIN

Section 51.231. Power of Eminent Domain

(a) The district may exercise the power of eminent domain to acquire all land, materials, borrow and waste ground, easements, rights-of-way, and everything considered necessary, incident, or helpful to accomplish by any practicable mechanical means any one or more of the purposes of the district. Property condemned by the district also may include property considered necessary for the extension or enlargement of the plant, works, improvements, or service of the district.

(b) The district may condemn either the fee simple title or an easement, and the land subject to condemnation may be public or private and may be located inside or outside the district. (39th Legis., G.L., Ch. 25, Sec. 125, sen. 2 (part), as amended.)

§ 51.232. Restriction on Power of Eminent Domain

Except to serve a public need superior to the use to which the property is being devoted, nothing in this subchapter shall authorize a district to condemn any land, property, easement, or facility owned, held, or used by another person when the property is necessary for the person to accomplish any of the purposes of this chapter. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 99, as amended.)

§ 51.233. Choice of Proceedings

Subject to the provisions of this chapter, the board may elect to use condemnation proceedings under the provisions of Title 52, Revised Civil Statutes of Texas, 1925, or the board, by its order for condemnation, may elect to proceed in the manner provided in Sections 51.234–51.273 of this code. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 1 (part), 41, 42, as amended.)

§ 51.234. Petition for Appointment of Tribunal

(a) Any time after a district has adopted a plan for improvements which enables it to determine definitely which easements or fee simple title to property should be acquired, the board may petition the district judge of a judicial district in which part of the district is located, requesting the appointment of a tribunal of three persons to collectively exercise judicial functions within the authority of this subchapter.

(b) If the district judge having jurisdiction is disqualified because of interest, is absent from the district, or does not act, the petition may be presented to a judge for any judicial district adjacent to the district of the original presentation.

(c) The petition may be presented in term time or in vacation and shall be entered on the docket as provided for other causes. The court's order shall be entered in the minutes of the court.

(d) The petition shall state:

- (1) the necessity for condemnation;
- (2) the name of the county or counties in which the property to be condemned is located; and
- (3) the name and address of each person known to have title to or an interest in any property proposed for condemnation, or that the address is not known and cannot be ascertained by reasonable diligence. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 1 (part), 2, 4, 5, 6, 7, as amended.)

§ 51.235. Qualifications for Appointment to Tribunal

(a) The board, in the petition, shall nominate for appointment to the tribunal three persons who shall be:

- (1) of lawful age;
- (2) qualified electors of the state;
- (3) disinterested, with good moral character; and
- (4) unrelated knowingly within the third degree of consanguinity or affinity to a member of the board making the nomination, the judge having jurisdiction, or to any person known to be asserting title to or an interest in any property proposed to be condemned.

(b) One nominee shall be a lawyer learned in the law of eminent domain and the exercise of rights of eminent domain and the other two nominees shall be persons with knowledge of the value and uses of land, injuries to land, and benefits to land to be affected by the proposed condemnation. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 3, as amended.)

§ 51.236. Hearing on Petition for Appointment of Tribunal

The district judge having jurisdiction shall set a hearing on the petition not less than 10 days nor more than 15 days after the petition is presented to him. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 9 (part), as amended.)

§ 51.237. Notice of Hearing on Petition for Appointment of Tribunal

(a) Notice of the hearing on the petition shall be written or printed and shall give the time, place, and object of the hearing and shall state that all interested persons will be allowed to make objection to any person nominated for appointment in the petition.

(b) The clerk of the court shall send a copy of the notice by registered mail to each owner whose name and address is given in the petition at least five days before the day set for the hearing on the petition. The notice shall be published one time at least five days before the day set for the hearing on the petition in one or more newspapers with general circulation in the area to be affected by the proposed condemnation.

(c) The publication shall have the effect of actual service on all interested persons, whether known or unknown, and whether named or not named in the petition. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 8, 9 (part), as amended.)

§ 51.238. Appointment of Tribunal

(a) At the time and place for the hearing on the petition, the judge shall hear procests from all interested persons.

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(b) The judge may refuse to appoint any or all of the persons nominated in the petition if good cause is shown and may appoint other persons considered by him to be qualified under the provisions of this subchapter.

(c) If good cause for refusal is not established, the judge shall appoint the persons nominated in the petition. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 10, 11 (part), as amended.)

§ 51.239. Appointment Final

The proceeding shall be terminated on the appointment of the tribunal, and no appeal from the action of the court can be maintained. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 11 (part), as amended.)

§ 51.240. Costs of Proceeding

The costs of the proceeding to appoint the tribunal shall be paid by the district proposing condemnation. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 12, as amended.)

§ 51.241. Qualifying as Member

Within 10 days after appointment or as soon after that time as practicable, each person appointed shall file with the secretary of the condemning district a written oath to be substantially as follows: "I swear (or affirm) that I, as a member of the tribunal to hear and determine matters incident to the condemnation proceedings instituted by (insert name of the district) will fairly, impartially, and without interest, prejudice, or favor, discharge my duties as a member of the tribunal appointed by the judge of the district court for the _____ District of Texas." (39th Legis., G.L., Ch. 25, Sec. 126, sen. 15, as amended.)

§ 51.242. Compensation of Tribunal

The district shall pay each member of the tribunal reasonable fees of not more than \$25 a day for each day he serves together with his actual expense as approved. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 46 (part), as amended.)

§ 51.243. Filing of Proposed Report with Board

The proposed report shall be delivered to the secretary of the board and shall become a permanent record of the district and be open to examination by all interested persons. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 49, as amended.)

§ 51.244. Appointment of Replacement on Tribunal

(a) If a member of the tribunal fails or refuses to act or becomes disqualified to act, he may be removed by petition to the court.

(b) A qualified substitute may be nominated and appointed to serve in his place in the manner provided for the original appointment, except that citation by publication is not required.

(c) The written notice shall be mailed instantly, and the hearing may be held on the third day after notice is mailed or as soon after the third day as the court may be able to act on the petition.

(d) If a member of the tribunal is disqualified to act regarding some parcel of property because of interest or relationship, a substitute may be appointed to serve only in the matter to which the disqualification exists.

In that case, notice shall be given only to the person interested in the property to which the disqualification is related. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 13, 14, as amended.)

§ 51.245. Authority of Tribunal

(a) When qualified, the members collectively shall be a judicial tribunal within the meaning and intent of Article V, Section 1, of the Texas Constitution.

(b) The tribunal shall have the duties and powers which are conferred on county courts and county judges for procedure and for effecting the administration of justice needed to accomplish the purpose of this subchapter.

(c) The tribunal shall have jurisdiction and power to do and decree all things which this subchapter authorizes the tribunal to do. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 16, 32, as amended.)

§ 51.246. Organization of Tribunal

(a) The tribunal may organize to accomplish its duties as it considers best, except that two members are required for a quorum and the concurrence of at least two members is necessary to decide any matter.

(b) The lawyer member of the tribunal shall be the advisor in matters of law.

(c) The clerk of the district shall furnish the service of a competent person to serve the tribunal as clerk.

(d) Orderly minutes of the proceedings shall be kept and shall be signed by all participating members and shall be a public record.

(e) The tribunal shall have a seal bearing the name of the district and the words "Tribunal for Condemnation."

(f) The proceedings shall be as free from technicality and as summary in character as will accomplish substantial justice. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 17, 19, 20, 21, 22, as amended.)

§ 51.247. Secretary of Tribunal

(a) The secretary of the board shall serve as secretary of the tribunal or the secretary may appoint another well-qualified person to serve as secretary of the tribunal, subject to approval by the tribunal.

(b) The person acting as secretary shall attest all records and reports as "Secretary."

(c) The person appointed to serve shall take an oath that he will keep and preserve a true written record of all material proceedings, findings, appraisements, and assessments concerning the duties of the tribunal.

(d) The secretary shall furnish the tribunal information and assistance within his power and necessary to the performance of its duties. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 29, 30, 31, as amended.)

§ 51.248. Order of Condemnation

(a) Any time after the adoption and approval of plans for improvements or the enlargement, extension, or alteration of improvements, as required by Section 51.234(a) of this code, the board may order the condemnation of any land or other property. The order of condemnation shall be recorded in the minutes.

(b) The board may elect in the order to condemn the fee simple title to the land or to condemn only an easement. Part of a tract of land may be

condemned in fee simple and part placed under an easement. The order of condemnation may specify within itself or by reference to exhibits, maps, or plats which land shall be placed under condemnation in fee simple, which land shall be placed under an easement, and if appropriate, identify any other property which is required to be taken.

(c) If it can be given by the exercise of reasonable diligence, the order of condemnation shall state the name and address of any owner or owners of each separate tract of land and appropriately relate those names and addresses to the property to which the ownership exists.

(d) The order shall contain a general statement showing the necessity for the taking but shall not be held invalid because of fault in the statement.

(e) The order may be amended in any and every particular at any time during the proceedings established in this subchapter if the person affected by the amendment or his agent or attorney is given actual notice of the amendment before any action is taken under it.

(f) The order for condemnation and all its exhibits shall be prepared in duplicate. One copy shall be delivered to the clerk of the tribunal for condemnation and filed by him as a record of the tribunal. The order shall constitute a petition for condemnation. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 23, 24, 25, 26, 27, 28, as amended.)

§ 51.249. Hearing and Order of Board

(a) The board shall receive, hear, and determine protests or recommendations relating to property to be condemned in the manner provided in Section 51.095 of this code.

(b) The findings of the board, after the advice of the district engineer relating to the necessity or advisability of acquiring any part of the property to be condemned, in fee or under an easement, for any purpose connected with or incident to the full completion and practical operation of the improvements to be provided under the district's plans for improvements, shall be final and not subject to judicial review except for fraud, palpable error, or an arbitrary act which would constitute actual fraud. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 35, as amended.)

§ 51.250. Furnishing Board's Findings to Tribunal

The board's determination on the necessity or advisability of acquiring property shall be made before the tribunal views property subject to condemnation, as provided in this subchapter, and the board's specific identifying conclusions shall be furnished to the tribunal. The record shall be accompanied by a designation of all property, easements, or agreements for liquidated damage which have been placed under voluntary option to or adjustment with the district. The tribunal shall omit consideration of any matter already adjusted. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 36, 37, 38, as amended.)

§ 51.251. Discharge of Tribunal's Duties

(a) The tribunal shall begin the discharge of its duties within 30 days after qualifying and organizing.

(b) The tribunal may at all times require the presence and necessary assistance of the district's engineers and attorneys to enable it to perform its duties intelligently. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 33, as amended.)

§ 51.252. Tribunal to View Property

The tribunal shall view all public and private land or other property which has been ordered condemned, whether located inside or outside the district. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 34, as amended.)

§ 51.253. Assessing Values and Damages on Affected Lands

(a) The tribunal shall appraise and assess the values of all affected land, easements, or property rights inside and outside the district and shall specifically appraise and assess the damages to justly compensate and liquidate all injuries to be done to each item of property affected.

(b) The tribunal shall be governed by the provisions of Article 3265, Revised Civil Statutes of Texas, 1925, in assessing the value of property sought to be condemned, computing damages, and determining compensating benefits. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 39, 40, as amended.)

§ 51.254. Omitted Assessment

If the tribunal omits the assessment of damages to any specific parcel of property, either inside or outside the district, it shall be deemed an affirmative finding that no damage will be done to the omitted parcel of property. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 43, as amended.)

§ 51.255. Tribunal's Proposed Report of Findings

(a) The tribunal shall prepare a specific and detailed proposed report of its findings which shows the owner of each parcel of property examined and concerning which any appraisal, award, finding, or assessment is made, together with a description of the property which identifies and relates it to the appropriate appraisal, award, finding, or assessment.

(b) The report shall separate and distinguish:

- (1) the value of property to be taken by the district in fee simple;
- (2) the amount of compensation for an easement to be taken by the district;
- (3) the amount required to justly compensate and liquidate the injury or damage to be done to property which is not condemned and taken in fee simple or placed under an easement; and
- (4) when appropriate, specify the parts of a parcel of property falling within more than one of the classifications and allocate to each portion its appropriate classified assessments.

(c) The report shall be prepared in triplicate and shall be approved and signed by at least two members of the tribunal.

(d) The proposed report shall show the number of days each member has actually served and the actual expenses necessarily incurred by each in serving the district. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 44, 45, 46 (part), as amended.)

§ 51.256. Hearing Objections to Tribunal Report

(a) The tribunal, in its proposed report, shall fix times and places to hear objections to its findings as reported. The tribunal shall consider the prevailing convenience of the property owners in fixing a place for hearing objections.

(b) Each hearing concerning land situated in a given county shall be held in the county in which the land proposed to be condemned is located

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and in a part of the county which will be most convenient to the majority of the landowners. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 47, 48, 51, as amended.)

§ 51.257. Published Notice of Hearing on Tribunal Report

(a) The secretary of the board shall promptly publish a notice of the filing of the report once a week for two consecutive weeks in one or more newspapers with general circulation in the district and in each of the counties in which affected property may be located. The first publication must appear at least 14 days before the day of the hearing.

(b) One notice may specify a hearing day and place for one county only and there may be notice for different days and places of hearing for other counties.

(c) The published notice shall be in substantially the following form:

LEGAL NOTICE

To the owners of, and all other persons having an interest in land or other property lying in _____ County, Texas: Take notice that a copy of the adopted plans for improvements by _____ County Water Control and Improvement District Number _____, are now open to inspection by anyone interested in them at the district's office at _____, Texas. These plans, contour maps and specifications will make manifest how your property will be affected. The tribunal previously appointed have appraised and assessed property values, benefits, and damages accruing to the affected land, and other property, both inside and outside the district, which will be condemned and taken, or subjected to an easement, or damaged, or otherwise affected by carrying out the plans for improvements to be provided by the district. The recorded report of the tribunal is open to inspection by any interested person at _____, in _____, Texas. Any interested person may make specific written objections to the report in whole or in part, and any person claiming damage to his property inside or outside the district, for which no damages have been assessed in the report are required to file an itemized claim for the damages in the district office on or before the _____ day of _____, _____, and all persons failing to make such objection or claim for damages will be deemed to have waived the same. Further, take notice that the tribunal of appraisal will meet on the _____ day of _____, _____, at _____, Texas, for the purpose of hearing and acting on objections to their proposed decree, and to hear, consider, and determine claims for compensation and damages.

Secretary

(39th Legis., G.L., Ch. 25, Sec. 126, sen. 50, 52, 53, 54, 55, 56, as amended.)

§ 51.258. Written Notice of Hearing on Tribunal Report

(a) The secretary of the board shall mail a written notice to each person whose land or other property is listed in the proposed report of the tribunal if the post-office address is known. The notice shall be mailed at least 10 days before the day for any given hearing.

(b) The notice shall state:

(1) the time and place of the meeting which the person is expected to attend;

(2) that the report of the tribunal to assess burdens on, values of, benefits to, and damages to the land and other property which will be affected by the district's plans for improvements has been filed in the district office and giving the location of the office;

(3) that the advised person may examine the report, together with the district's plans, contour maps, and specifications, and file written specific objections to any part of the report; and

(4) that the tribunal will meet on the day and at the place named for the purpose of hearing the notified person and acting on objections to the report.

(c) Instead of mailing notice, personal notice may be executed and return made under oath by any person appointed by the secretary of the board in the same manner and on the same persons, officers, or agents as provided for service of citations in suits pending in the district courts. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 57, 58, as amended.)

§ 51.259. Certification of Notice by Secretary

The secretary of the board on the first day of the hearing shall file in the district office the original notice as published, with his affidavit showing the manner of publication and the days on which and the newspaper or newspapers in which the notice was published and shall certify the names and addresses of all persons to whom notices were mailed or on whom actual service was made. The secretary also shall show affirmatively that personal service was executed or timely notice mailed to or served on each landowner whose address was known or could be known by the exercise of reasonable diligence. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 59, as amended.)

§ 51.260. Filing Exceptions to Report of Tribunal

At or before the hearing on the report of the tribunal, any owner of land or other property affected by the report, or by the district's plans for improvements, may file exceptions to any part of the report, either in person or by an attorney or other agent. Any person whose property has been assessed no damages who believes that his land or other property will be damaged by carrying out the plans for improvements may file a claim for the damages with the district. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 60 (part), as amended.)

§ 51.261. Hearing Procedure

(a) At the time and place named in the notice, the tribunal shall hear evidence and determine all objections and claims for damages and shall make changes and modifications from time to time which will cause its proposed decree to conform to the justice of each case under the facts presented.

(b) The tribunal may grant in whole or in part, or may overrule, any claim for compensation or damage or any other exception to its proposed report.

(c) Until all persons desiring a hearing have been heard, the hearing may be recessed from one day or place to other days and places, to be announced in open meeting. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 60 (part), 61, as amended.)

§ 51.262. Final Decree

(a) The tribunal shall determine finally all matters presented concerning its proposed report and shall enter its final decree concerning the proposed report to the extent that it is confirmed and shall approve and confirm the proposed report as modified or changed to the extent that it is modified or changed.

(b) The tribunal in its decree shall condemn all the land, easements, rights-of-way, or other property inside or outside the district which is considered by the board to be needed and is designated to make effectual and practicable the construction and operation of all works, improvements, and services which the district plans to provide ultimately and to accomplish any purpose designated in this subchapter. The tribunal shall condemn either the fee simple title or an easement as elected and designated by the board.

(c) The tribunal shall judge and award all compensation for property to be taken or placed under easement and shall award all damages, if any are allowed under the law. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 62, 64, 65, as amended.)

§ 51.263. Filing Final Decree

A certified copy of the final decree of condemnation concerning the property in each county shall be filed with the county clerk for record, and the record shall be notice to all persons of the contents of the decree. The original decree shall be a permanent record of the district and also shall constitute notice. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 66, 67, as amended.)

§ 51.264. Costs

The tribunal may apportion and adjudge costs incurred for any hearing in a manner of allocation which is considered equitable. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 63, as amended.)

§ 51.265. Authority to Appeal

(a) The final decree of the tribunal concerning any matter is subject to appeal or judicial review only in the manner specified in Sections 51.267–51.278 of this code.

(b) The only questions which may be considered on appeal are whether or not just compensation was allowed and whether or not any damages are lawfully recoverable.

(c) The board in the name and behalf of the district or any person having an interest in the decree of the appraisers may appeal from the decree assessing or refusing to assess damages or fixing compensation for the value of property taken or subjected to an easement.

(d) The claimant shall be considered the plaintiff and the district shall be considered the defendant except in cases in which the district has filed exceptions to the report of the district's referees of appraisal. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 68, 89, as amended.)

§ 51.266. Jurisdiction of Appeal

(a) The appeal shall be in the district court having jurisdiction over the area in which condemned land in⁹ located, either in whole or in part.

(b) The courts of jurisdiction shall be the number required to provide appeals in the jurisdiction within which any given land is situated.

⁹ So in enrolled bill.

(c) The district courts shall have jurisdiction regardless of the amount or the number of the separate claims involved. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 69, 70, 72, as amended.)

§ 51.267. Notice of Appeal

Notice of appeal shall be given within two days after the entry of the final decree by the tribunal by filing written notice of the appeal with the secretary of the board. The written notice shall be a simple statement that the undersigned gives notice of appeal from the decree entered on the date stated and specifying the exact claims sought to be established by the appeal. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 73, 74 (part), as amended.)

§ 51.268. Appeal Bond

(a) The appellant shall file an appeal bond with two or more good and sufficient sureties with the clerk of the court in which the appeal is being prosecuted within five days after the entry of the decree being appealed. The bond shall be in an amount double the costs, if any, already allocated to the appellant, plus double the amount estimated by the clerk to be incurred on the appeal.

(b) The bond shall be payable to the clerk of the court in which the appeal is being prosecuted and shall be subject to his approval as to sufficiency.

(c) The bond shall be conditioned on the appellant prosecuting his appeal with effect and paying all the costs awarded against him by the court.

(d) Any district, including a district established to be a "Municipal District," appealing a decree shall not be required to give a bond for appeal or a bond for costs. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 74 (part), 75, 76, 82, 95, as amended; and 42nd Legis., 3rd C.S., Ch. 23, Sec. 1.)

§ 51.269. Period for Perfecting Appeal

Unless an appeal is perfected as provided in this subchapter within seven days after the day the final decree of the tribunal is rendered, the decree shall be final and conclusive as to any given matter not appealed from and there shall be no extension of time for the filing of an appeal bond. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 77, as amended.)

§ 51.270. Transcript and Pleadings

Within 12 days after the entry of a final decree of condemnation which has been appealed, the secretary of the board shall file with the clerk of the court a certified transcript of the final decree of condemnation which shows the facts concerning the items of decision appealed from, together with the original notices of appeal or a certificate showing the names and addresses of all persons who gave notice of appeal, and which includes the stated grounds on which each of the appeals has been predicated. It shall not be necessary to file any additional pleadings in the court. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 78, as amended.)

§ 51.271. Docketing Appeal

All appeals for each given county shall constitute one proceeding on the docket of the district court. The docket shall recite the name of each

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of the parties to the proceeding and shall be indexed accordingly. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 71, 79, 80, as amended.)

§ 51.272. Severance of Appeal

The court, on motion, may grant or refuse to grant a severance of any separate claim arising from distinction as to ownership. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 81, as amended.)

§ 51.273. Procedure for Trial

(a) When an appeal is filed, the court shall set the appeal for a hearing and the appeal shall be tried de novo by the court. The court shall grant any interested party the right to trial by jury on request.

(b) An incomplete hearing may be recessed from one day to another day or may be continued to the next term or succeeding terms of the court.

(c) All proceedings before the court and notices of the hearings shall be in accordance with the provisions of the Texas Rules of Civil Procedure as applied to an ordinary civil case. The admission of evidence and the fixing of awards, so far as applicable and not inconsistent with the provisions of this subchapter, shall be governed by the law and rules of procedure relating to trials and awards in damage suits.

(d) The hearing shall be given precedence by the court over all civil causes on the docket which do not involve public welfare, shall be concluded with all reasonable dispatch, and shall be as summary in character as is consistent with full and complete justice. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 83, 84, 85, 90, as amended.)

§ 51.274. Court's Decree

(a) The court shall hear evidence proper to the consideration of any filed exception. After hearing all evidence and argument offered, the court in term time shall enter its final decree, either approving the decree of the tribunal, modifying the decree, or in any manner changing the decree so that in the court's judgment the decree will conform to the justice of each specific case.

(b) Except as otherwise provided in this subchapter, the court's decree shall conform to the provisions of Title 52, Revised Civil Statutes of Texas, 1925. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 86, 87, 88, as amended.)

§ 51.275. Appeal from Court's Decree

The judgment of the district court may be appealed as in civil cases, and each appeal shall constitute a separate cause on the docket of the court of civil appeals. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 91, as amended.)

§ 51.276. Writ of Possession

The appeal from the decree of the tribunal to condemn shall not delay possession of the condemned property or prosecution of the work, but a writ of possession shall not be issued until a special deposit has been made and certified to the clerk of the court as provided in Section 51.278. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 92 (part), as amended; and 42nd Legis., 3rd C.S., Ch. 23, Sec. 2, sen. 5.)

§ 51.277. Reserve Fund Pending Appeal

(a) The district shall set apart in its depository out of the construction fund an amount of money not less than double the amount of the total award made by the tribunal, plus an additional amount which the board considers sufficient to pay the costs then incurred and the costs which may be incurred on appeal. The amount set apart shall be ascertained on the day on which the writ of possession is sought and must actually be available to the condemnor in lawful money of the United States. The fund must remain in the depository until the final adjudication of the condemnation and must be applied to the payment of awards and costs and shall not be used for any other purpose. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 92 (part), as amended; and 42nd Legis., 3rd C.S., Ch. 23, Sec. 2, sen. 1, 2 (part).)

(b) In case of evident abuse of discretion by the board, the judge of the court, on motion by an aggrieved appellant, may require the board to increase the reserve fund to an amount which the judge considers adequate to discharge final awards. The board must comply with the increase of the reserve fund before it shall be authorized to take possession of any condemned property or to cause damage to any property. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 94, as amended.)

(c) The record and the conditions of the deposit shall be acknowledged in writing by the depository, and the certificate of deposit shall be filed with the clerk of the court in which an appeal is pending as part of the record in the condemnation proceeding. The clerk of the court shall certify his genuine official signature or those of his qualified deputies to the depository, and the depository may not pay vouchers drawn on the special fund except on written approval of the judge, the clerk of the court, and the condemnee. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 93, as amended; and 42nd Legis., 3rd C.S., Ch. 23, Sec. 2, sen. 3, 4.)

(d) A condemnee who has appealed a decree may elect to receive money from the designated fund in satisfaction of his demand at any time before the final adjudication. When the condemnee elects to receive the amount of the award in satisfaction of his demand before final judgment or when the judgment in condemnation becomes final, the clerk of the court and the depository shall pay instantly to the condemnee the sum of the deposit due to the condemnee, other than that to cover costs. The payment may be with or without the consent of the condemnor. (42nd Legis., 3rd C.S., Ch. 23, Sec. 2, sen. 2 (part), 6.)

(e) Any officer or employee of the condemnor, any officer or employee of the depository of the condemnor, or the clerk of the court or his deputy who knowingly permits any part of the special fund to be paid out for any purpose or in any manner except as provided in this section shall be guilty of a felony. On conviction, he may be fined in any sum not to exceed \$5,000 or imprisoned in the penitentiary for a term not to exceed three years or both. (42nd Legis., 3rd C.S., Ch. 23, Sec. 2, sen. 7.)

(f) The sureties on the bond of the miscreant or the bond or security of the offending depository shall restore the misapplied or diverted deposit, provided the required sum, together with other lawful charges against the bond, does not exceed the penal sum of the bond or the security held instead of sureties. (42nd Legis., 3rd C.S., Ch. 23, Sec. 2, sen. 8.)

§ 51.278. Vesting Title

On compliance with the provisions of this subchapter, the title to all land, easements, rights-of-way, or other property condemned shall vest in the district after payment or provision for payment of compensation. The district is entitled to immediate possession of the condemned property or rights. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 96, as amended.)

§ 51.279. Claim Barred

A person owning or having an interest in property affected by the district's plans for improvements and service or its condemnation proceedings who has failed to file claim or objection or who has failed to appeal from an adverse ruling by the tribunal on any claim or objection as provided in this subchapter shall not claim from the district, its officers, contractors, agents, or employees any compensation for property or damage to property other than that which already has been awarded by the tribunal. This provision shall not apply to claims which are not incidents of lawful condemnation, construction, and operation. (39th Legis., G.L., Ch. 25, Sec. 126, sen. 97, 98, as amended.)

[Sections 51.280–51.300 reserved for expansion]

SUBCHAPTER G. WATER CHARGES AND ASSESSMENTS

Section 51.301. Statement Estimating Water Requirements and Payment of Charge

(a) Each person who desires to receive water at any time during the year shall furnish the secretary of the board a written statement of the acreage he intends to irrigate and the different crops he intends to plant with the acreage of each crop.

(b) At the time the acreage estimate is furnished to the secretary, each person applying for water shall pay the portion of the water charge or assessment set by the board.

(c) If a person does not furnish the statement of estimated acreage or does not pay the part of the water charge or assessment set by the board before the date for fixing the assessment, the district is not obligated to furnish water to that person during that year. (39th Legis., G.L., Ch. 25, Sec. 109, sen. 1, 2.)

§ 51.302. Contracts with Person Using Water

(a) The board may require each person who desires to use water during the year to enter into a contract with the district which states the acreage to be watered, the crops to be planted, the amount to be paid for the water, and the terms of payment.

(b) If a person irrigates more land than his contract specifies, he shall pay for the additional service.

(c) The directors also may require a person using water to execute a negotiable note or notes for all or part of the amount owed under the contract.

(d) The contract is not a waiver of the lien given to the district under Section 51.309 of this code against the crops of a person using water for the service furnished to him. (39th Legis., G.L., Ch. 25, Sec. 109, sen. 8, 9, 10.)

§ 51.303. Authority to Determine Rules and Regulations

The board may adopt, alter, and rescind rules, regulations, and standing and temporary orders which do not conflict with the provisions of this subchapter and which govern:

- (1) methods, terms, and conditions of water service;
- (2) applications for water;
- (3) assessments for maintenance and operation;
- (4) payment and the enforcement of payment of the assessments;
- (5) furnishing water to persons who did not apply for it before the date of assessment; and
- (6) furnishing water to persons who wish to take water for irrigation in excess of their original applications or for use on land not covered by their original applications. (39th Legis., G.L., Ch. 25, Sec. 109, sen. 7.)

§ 51.304. Board's Estimate of Maintenance and Operating Expenses

The board, on or as soon as practicable after a date fixed by standing order of the board, shall estimate the expenses of maintaining and operating the irrigation system for the next 12 months. (39th Legis., G.L., Ch. 25, Sec. 109, sen. 3.)

§ 51.305. Distribution of Assessment

(a) Not less than one-third nor more than two-thirds of the estimated maintenance and operating expenses shall be paid by assessment against all land in the district to which the district can furnish water through its irrigation system or through an extension of its irrigation system.

(b) The assessments shall be levied against all irrigable land in the district on a per acre basis, whether or not the land is actually irrigated. The board shall determine from year to year the proportionate amount of the expenses which will be borne by water users.

(c) The remainder of the estimated expenses shall be paid by assessments against persons in the district who use or who make application to use water. The board shall prorate the remainder as equitably as possible among the applicants for water and may consider the acreage each applicant will plant, the crop he will grow, and the amount of water per acre he will use; however, all persons using water to plant the same crop will pay the same price per acre for the water. (39th Legis., G.L., Ch. 25, Sec. 109, sen. 4, 5.)

§ 51.306. Notice of Assessments

(a) Public notice of all assessments shall be given by posting printed notices of the assessment in at least three public places in the district.

(b) Notice shall be mailed to each landowner at the address which the landowner shall furnish to the board.

(c) The notice shall be posted in a public place and mailed to each landowner five days before the assessment is due, and notice of special assessments shall be given within 10 days after the assessment is levied. (39th Legis., G.L., Ch. 25, Sec. 110, sen. 2, 3.)

§ 51.307. Payment of Assessments

(a) All assessments shall be paid in installments at the times fixed by the board.

(b) If a crop for which water was furnished by the district is harvested before the due date of any installment payment, the entire unpaid assessment becomes due at once and shall be paid within 10 days after the crop is harvested and before the crop is removed from the county or counties in which it was grown. (39th Legis., G.L., Ch. 25, Sec. 109, sen. 6.)

§ 51.308. Collection of Assessments by Tax Assessor and Collector

(a) Under the direction of the board, the assessor and collector, or other person designated by the board, shall collect all assessments for maintenance and operating expenses.

(b) The assessor and collector shall execute a bond in an amount determined by the board, conditioned on the faithful performance of his duties and accounting for all money collected.

(c) The assessor and collector shall keep an account of all money collected and shall deposit the money as collected in the district depository. He shall file with the secretary of the board a statement of all money collected once each week.

(d) The assessor and collector shall use a duplicate receipt book, give a receipt for each collection made, and retain in the book a copy of each receipt, which shall be kept as a record of the district. (39th Legis., G.L., Ch. 25, Sec. 111.)

§ 51.309. Lien against Crops

The district shall have a first lien, superior to all other liens, against all crops grown on each tract of land in the district to secure the payment of the assessment, interest, and collection or attorney's fees. (39th Legis., G.L., Ch. 25, Sec. 109, sen. 12 (part), 13 (part).)

§ 51.310. List of Delinquent Assessments

Within 10 days after any assessment is due, the board shall post in a public place in the district a list of all persons who are delinquent in paying their assessments and shall keep posted a correct list of all persons who are delinquent in paying assessments. If a person who owes an assessment has executed a note and contract as provided in Section 51.302 of this code, he shall not be placed on the delinquent list until after the maturity of the note and contract. (39th Legis., G.L., Ch. 25, Sec. 109, sen. 17.)

§ 51.311. Water Service Discontinued

If a landowner fails or refuses to pay a water assessment when due, his water supply shall be cut off, and no water may be furnished to the land until all back assessments are fully paid. The discontinuance of water service is binding on all persons who own or acquire an interest in land for which assessments are due. (39th Legis., G.L., Ch. 25, Sec. 109, sen. 15 (part), 16.)

§ 51.312. Suits for Delinquent Assessments

Suits for delinquent water assessment may be brought either in the county in which the district is located or in the county in which the defendant resides. All landowners are personally liable for assessments provided in this subchapter. (39th Legis., G.L., Ch. 25, Sec. 109, sen. 14, 15 (part).)

§ 51.313. Interest and Collection Fees

(a) All assessments shall bear interest from the date payment is due at the rate of 10 percent a year.

(b) If suit is filed to foreclose a lien on crops or if a delinquent assessment is collected by any legal proceeding, an additional amount of 10 percent on unpaid principal and interest shall be added as collection or attorney's fees. (39th Legis., G.L., Ch. 25, Sec. 109, sen. 12 (part), 13 (part).)

§ 51.314. Rights of the United States

(a) If the board enters into a contract with the United States, the remedies in this subchapter available to the district also shall apply to enforce payment of charges due to the United States. The federal reclamation laws shall also apply.

(b) The directors shall distribute and apportion all water acquired by the district under a contract with the United States in accordance with acts of Congress, rules and regulations of the secretary of the interior, and provisions of the contract. (39th Legis., G.L., Ch. 25, Sec. 109, sen. 18, 19, 20.)

§ 51.315. Surplus Assessments

If assessments made under this subchapter are more than sufficient to pay the necessary expenses of the district, the balance shall be carried over to the next year. (39th Legis., G.L., Ch. 25, Sec. 110, sen. 1 (part).)

§ 51.316. Insufficient Assessments

If the assessments made under this subchapter are not sufficient to pay the necessary expenses of the district, the unpaid balance shall be assessed pro rata, in accordance with the assessments made for the current year. The additional assessments shall be paid under the same conditions and penalties within 30 days after the date of assessment. (39th Legis., G.L., Ch. 25, Sec. 110, sen. 1 (part).)

§ 51.317. Determining Maintenance and Operation Charges

The board may make, establish, and collect maintenance and operation charges for service on the basis of the quantity of water furnished or appropriate measure of the service rendered. (39th Legis., G.L., Ch. 25, Sec. 106, sen. 1 (part).)

§ 51.318. Charges for Maintenance Expenses

(a) If maintenance charges are based on the quantity of water used, a fixed minimum charge may be made on all land, water connections, or other service entitled to receive and use water. An additional charge may be made for the use of more water than that covered by the minimum charge.

(b) The board may install proper measuring devices or require that they be installed. (39th Legis., G.L., Ch. 25, Sec. 106, sen. 1 (part), 2.)

§ 51.319. Charge to Cities and Towns

If a district includes a city or town or contracts with a city or town to supply water to it, the charge for the use of the water and the time and manner of payment shall be determined by the board or fixed by the contract made with the board. (39th Legis., Ch. 25, Sec. 106, sen. 3.)

§ 51.320. Loans for Maintenance and Operating Expenses

The board may borrow money to pay maintenance and operating expenses at an interest rate of not more than 10 percent a year and may pledge as security any of its notes or contracts with water users or accounts against them. (39th Legis., G.L., Ch. 25, Sec. 109, sen. 11.)

§ 51.321. Water Service: Refused

The board may refuse water service to any person who refuses to pay the charges and assessments for water service or who fails or refuses to pay any taxes levied against his property after six months from the date the taxes become delinquent. (39th Legis., G.L., Ch. 25, Sec. 108.)

[Sections 51.322–51.330 reserved for expansion]

**SUBCHAPTER H. WASTE DISPOSAL AND
CONTROL OF STORM WATER**

Section 51.331. Authority to Dispose of Waste and Control Storm Water

(a) A district may include in its purposes and plans all improvements, facilities, plants, equipment, and appliances incident to or helpful or necessary to the collection, transportation, processing, disposal, and control of all domestic, industrial, or communal wastes, whether fluids, solids, or composites, and to gather, conduct, divert, and control local storm water or other local harmful excesses of water.

(b) The district may use any mechanical or chemical means or processes incident, necessary, or helpful to accomplish these purposes, and to conserve and promote the public health and welfare, and to protect, effect, or restore the purity and sanitary condition of the state's water. (39th Legis., G.L., Ch. 25, Sec. 3a, sen. 1 (part), 2, as amended.)

§ 51.3. 2. Increasing District's Powers

(a) A district operating under the provisions of this chapter which did not at the time of its creation have the powers provided in Section 51.331 of this code may assume the additional powers in the same manner and by the same procedures as provided in this subchapter, except that it is not necessary to hold an election to confirm the order establishing the district's increased powers.

(b) The board may not issue a money obligation to finance the increased functions, facilities, and powers until after the electors of the district have authorized it by a constitutional and statutory majority vote as provided by this chapter to control the issuance of preliminary bonds or construction bonds as the proposal may require. (39th Legis., G.L., Ch. 25, Sec. 3a, sen. 13, as amended.)

§ 51.333. Approval of Petition Creating District

(a) The commission shall hear and determine the petition to create a district to exercise the powers and functions provided in Section 51.331 of this code.

(b) The commission shall hear and determine the petition under the applicable provisions of Sections 51.027–51.031 of this code.

(c) The Texas Water Development Board and the division of sanitary engineering of the State Health Department shall render advisory aid concerning the petition and plans of the district, if it is requested.

(d) Nothing in this section impairs the right of the commissioners court to grant a petition under the provisions of Section 51.021 of this code relating to a district to be located wholly in one county if the district will not have the powers provided in Section 51.331 of this code. (39th Legis., G.L., Ch. 25, Sec. 3a, sen. 10, 11, 12, as amended.)

§ 51.334. Election Provisions

(a) The provisions of Sections 51.035–51.037 of this code shall not apply to an election to create a district to exercise the powers provided in Section 51.331 of this code. (39th Legis., G.L., Ch. 25, Sec. 3a, sen. 9 (part), as amended.)

§ 51.335. Other Governmental Agencies Included

(a) A district proposing to exercise the powers and to perform the functions provided in this subchapter may include any part of areas already included within the boundaries of any political subdivision, governmental agency, or body politic of the state.

(b) The district shall not usurp functions or duplicate a service already adequately exercised or rendered by the other governmental agency except under a valid contract with the other governmental agency. (39th Legis., G.L., Ch. 25, Sec. 3a, sen. 7, as amended.)

§ 51.336. Additional Land

Additional defined areas may be added to the district in the manner provided in this subchapter for creation of a district. (39th Legis., G.L., Ch. 25, Sec. 3a, sen. 9 (part), as amended.)

§ 51.337. Powers of District

The district has all the powers and rights of procedure, financing, construction, maintenance, rehabilitation, operation, and administration conferred by Article XVI, Section 59, of the Texas Constitution, and by this chapter. (39th Legis., G.L., Ch. 25, Sec. 3a, sen. 3, as amended.)

§ 51.338. Rules, Regulations, and Charges

(a) The district may adopt and enforce reasonable rules, regulations, and specific charges, fees, or rentals in addition to taxes.

(b) The board shall publish a copy of the adopted orders and regulations once a week for two consecutive weeks in one or more newspapers with general circulation in the district and record the adopted orders and regulations in full in the minutes of the district.

(c) After the required publication and recording, the police power of the district, as provided in this chapter, may be exercised to enforce the intent of the orders, and the district may discontinue a facility or service to prevent an abuse or to enforce payment of a due and unpaid charge. (39th Legis., G.L., Ch. 25, Sec. 3a, sen. 4, 5, 6, as amended.)

§ 51.339. Taxes

The district, either solely or in connection with other powers granted by this chapter, may impose taxes in addition to the taxes which may

have been or may be imposed by another governmental agency included in the district. (39th Legis., G.L., Ch. 25, Sec. 3a, sen. 8. as amended.)

[Sections 51.340–51.350 reserved for expansion]

SUBCHAPTER I. GENERAL FISCAL PROVISIONS

Section 51.351. Construction Fund

(a) The proceeds from the sale of bonds shall be deposited in the construction fund.

(b) Money deposited in the construction fund shall be used to pay expenses, debts, and obligations necessarily incurred in the creation, establishment, and maintenance of the district and to pay the purchase price of property and construction contracts, including purchases for which the bonds were issued.

(c) If the bonds were issued in accordance with a contract with the United States, debts and obligations may be paid from the construction fund under the terms of or incident to the contract.

(d) After the payment of obligations for which the bonds were issued, any remaining money in the construction fund may be transferred to the maintenance fund. (39th Legis., G.L., Ch. 25, Sec. 102.)

§ 51.352. Maintenance Fund

(a) The district shall have a maintenance fund which shall include money collected by assessment or other method for the maintenance, repair, and operation of the properties and plant of the district or for temporary annual rental due to the United States.

(b) The maintenance fund shall be used to pay all expenses of maintenance, repair, and operation of the district except the expenses of assessing and collecting taxes for the interest and sinking fund. Expenses for collecting taxes for the interest and sinking fund shall be paid from the interest and sinking fund.

(c) The district may pay from the maintenance fund other expenses for which the payment is not provided in this chapter. (39th Legis., G.L., Ch. 25, Sec. 103.)

§ 51.353. Amortization and Emergency Fund

(a) The board shall have a competent engineer make an inspection and valuation of the physical property of the district which is subject to decay, obsolescence, injury, or damage by sudden, accidental, or unusual causes, and based on the inspection and valuation, the engineer shall determine as nearly as he can a sufficient amount to be set aside annually to pay for replacement of each item of physical property at the end of its economic life or for the restoration or replacement of any item of physical property if it is lost, injured, or damaged.

(b) The board shall set aside a portion of the maintenance fund as it is collected equal to the amount determined under Subsection (a) of this section and shall place this money in the amortization and emergency fund. No part of this fund may be spent except to replace amortized property or to replace or restore lost, injured, or damaged property.

(c) Any amount in the amortization and emergency fund which is not spent for the purposes for which the fund was created may be invested in bonds or interest bearing securities of the United States.

(d) The board is not required to create an amortization and emergency fund, but if the board does create the fund, it shall be kept up and maintained. (39th Legis., G.L., Ch. 25, Sec. 104, sen. 2, 3, 4, 5.)

§ 51.354. Expenditure of District Funds

Funds of the district shall be paid out on order of the board with warrants drawn for that purpose. (39th Legis., G.L., Ch. 25, Sec. 105, sen. 1.)

§ 51.355. Depository

Before bonds are sold, the board shall select a depository for the district as provided in this chapter, and the proceeds of the bonds shall be placed in the depository and disbursed as provided in this chapter. (39th Legis., G.L., Ch. 25, Sec. 35.)

§ 51.356. Selection of Depository

(a) The board shall select a depository for the district in the manner provided for the selection of a county depository and shall perform all duties provided by law for the selection of a depository, acceptance and approval of bonds, and other acts.

(b) The depository shall execute a good and sufficient bond approved by the board to fully protect the district and to guarantee the preservation of the funds and the accountability of the depository as provided by law. The bond shall be recorded in the district office and kept in a fire-proof vault or safe.

(c) Except as otherwise provided, the duties and the bond and security of the depository shall be the same as provided by law for a county depository. (39th Legis., G.L., Ch. 25, Sec. 113, sen. 1, 2, 3, 4, 5.)

§ 51.357. Functions and Duties of Depository

(a) Funds of the district shall be deposited in the depository and shall be paid out as provided in this chapter.

(b) The funds shall be deposited in the interest and sinking fund account, the construction account, or the maintenance account, and each account shall be maintained separately.

(c) No money may be paid from the interest and sinking fund account except to pay interest and principal on bonds and to pay the expenses of assessing and collecting taxes to pay for the bonds.

(d) The depository shall make a report of all money received and paid out by it at the end of each month and shall file the report and the vouchers with the records of the district in the depository vault. A copy of the report shall be made available for inspection by any taxpayer and shall be delivered to the successor of the depository. (39th Legis., G.L., Ch. 25, Sec. 113, sen. 6, 7, 8, 9.)

§ 51.358. Selecting a Bank as Depository in which a District Director has an Interest

(a) If the highest and best bidder to become the district depository is a bank in which a district director is a stockholder or a director, the bank may be selected as the depository if the interested director does not vote on the selection and the approval of the bond.

(b) Before the selection of the bank or the approval of the bond are effective, they must be submitted to and approved by the county judge in the county in which the district is located.

(c) If the county judge fails to approve the depository selected or the bond, new bids shall be requested and another bank selected as district depository. (39th Legis., G.L., Ch. 25, Sec. 114.)

§ 51.359. District Audit

(a) The district shall keep a complete system of accounts and may have the accounts audited on a monthly, quarterly, or semiannual basis by one or more county auditors or by any independent public accountant of recognized integrity and ability.

(b) The audit shall conform to January 1 as the end of the fiscal year, and any district which fails to have an audit in January and July of each year is subject to audit by the county auditor of the county in which the district's principal office is located and to payment of the actual cost of the audit for the omitted period. The cost of this special audit shall be determined by the commissioners court of the county which the auditor represents and paid by the district.

(c) The audit report shall be prepared in duplicate, and one copy shall be filed in the district office and one copy shall be filed in the auditor's office. These filed copies of the audit report shall be public records which are available for inspection by any interested person. (39th Legis., G.L., Ch. 25, Sec. 45, as amended.)

§ 51.360. Maintenance Tax

(a) A district may levy and collect a tax for maintenance purposes, including funds for planning, maintaining, repairing, and operating all necessary plants, properties, facilities, and improvements of the district and for paying costs of proper services, engineering and legal fees, and organization and administrative expenses.

(b) A maintenance tax may not be levied by a district until it is approved by a majority of the electors voting at an election held for that purpose. (39th Legis., G.L., Ch. 25, Sec. 107, sen. 1, 2, as amended.)

§ 51.361. Maintenance Tax Election

(a) The maintenance tax election may be held at the same time and in conjunction with the election to authorize bonds, and the procedure for calling the election, giving notice, conducting the election, and canvassing the returns shall be the same as the procedure for a bond election.

(b) If only a maintenance tax election is called, the order calling the election shall be issued at least 15 days before the day of the election, and the election notice shall be published at least twice in a newspaper of general circulation in the district. The first publication of the notice shall be at least 14 days before the day of the election. (39th Legis., G.L., Ch. 25, Sec. 107, sen. 4, 5, as amended.)

§ 51.362. Expenditure of Surplus Maintenance Tax Funds

If a district has any surplus maintenance tax funds which are not needed for the purposes for which they were collected, the funds may be used for any lawful purpose. (39th Legis., G.L., Ch. 25, Sec. 107, sen. 6, as amended.)

[Sections 51.363–51.370 reserved for expansion]

SUBCHAPTER J. BORROWING MONEY

Section 51.371. Authority to Borrow Money

The board may declare that funds are not available to meet lawfully authorized obligations of the district, thereby creating an existing emergency, and may borrow money at a rate of not more than eight percent a year on notes of the district to pay the obligations. (39th Legis., G.L., Ch. 25, Sec. 32a, sen. 1 (part), as added.)

§ 51.372. Security for Loan

To secure the loan, the board may pledge up to 85 percent of any levied tax of the district which has not been collected by the district or may pledge as collateral any district bonds which have been authorized but not sold. (39th Legis., G.L., Ch. 25, Sec. 32a, sen. 1 (part), as added.)

§ 51.373. Maturity Date of Loan

(a) If taxes are pledged to pay for the loan, the loan shall mature not later than the following April 1.

(b) If preliminary or construction bonds are pledged to pay the loan, the loan shall mature not later than six months from the date it is made. (39th Legis., G.L., Ch. 25, Sec. 32a, sen. 1 (part), as added.)

§ 51.374. Loan Secured by Bonds

The amount of the loan may not be more than 25 percent of the district's unsold bonds and the par value of the bonds may not be more than 10 percent of the amount of the loan. (39th Legis., G.L., Ch. 25, Sec. 32a, sen. 1 (part), as added.)

§ 51.375. Expenditure of Loan Proceeds

No money obtained from a loan under Section 51.371 of this code may be spent for any purpose other than the purposes for which the pledged tax was levied or the pledged bonds were authorized. (39th Legis., G.L., Ch. 25, Sec. 32a, sen. 2, as added.)

§ 51.376. Authority of Certain Municipal Districts to Obtain Loans

A district which is created under Article XVI, Section 59, of the Texas Constitution, and which is established as a municipal district under Section 51.038 of this code may obtain a loan from any source. (42nd Legis., 3rd C.S., Ch. 24, Sec. 1, sen. 1; Sec. 2, sen. 1 (part).)

§ 51.377. Improvements Need not be Self-Liquidating

Improvements in districts borrowing money under Section 51.376 of this code do not have to be self-liquidating either in whole or in part. (42nd Legis., 3rd C.S., Ch. 24, Sec. 1, sen. 3.)

§ 51.378. Loans Accomplished by Sale of District Bonds

If the loan is secured by the sale of district bonds, the district may enter into an obligation to be conditioned conformably with the usages of investment banking to repurchase the bonds within the five-year period immediately following the date of the loan. (42nd Legis., 3rd C.S., Ch. 24, Sec. 3, sen. 1 (part).)

§ 51.379. Loans Obtained without Sale of Bonds

(a) If a district desires to secure a loan under Section 51.376 of this code without the sale of bonds, the amount of the loan may be equal to, but shall not be more than, the estimated and authorized maximum cost of the improvement.

(b) Loans made under this section may be obtained to pay debt already incurred, to obtain money to begin work on the improvement, or to provide money to continue construction which has already begun.

(c) The proceeds of the loan shall be applied to the purpose for which it was authorized, but the lender is not required to assure that the funds are properly spent.

(d) The rate of interest on the loan shall not be more than six percent and the loan shall mature on a date agreed to by the parties which shall be more than five years from the date of the loan. (42nd Legis., 3rd C. S., Ch. 24, Sec. 3, sen. 2, 3, 4, 5, 6.)

§ 51.380. Impounding Bonds

(a) If a loan is obtained under Section 51.376 of this code and the district has unsold bonds which were authorized to be used to pay for the improvements which are to be paid for with the loan, the district shall impound in its depository the unsold bonds in a par amount which is as nearly equal the amount of the loan as possible.

(b) If there are not enough unsold bonds to equal the amount of the loan, the district shall impound all the unsold bonds which are available.

(c) Any bonds which are impounded shall remain impounded unless they are:

(1) withdrawn by the borrower in proportion to the progressive reductions of the debt;

(2) placed under pledge as provided in Section 51.381 of this code; or

(3) sold and the proceeds applied to the payment of the loan. (42nd Legis., 3rd C.S., Ch. 24, Sec. 3, sen. 7, 8, 9.)

§ 51.381. Pledge of Commercial Income

(a) The term "commercial income" means income other than revenue derived from taxation.

(b) If required to do so, a district may pledge its existing and expected commercial income to secure a loan under Section 51.376 of this code to the extent that the pledge will not obviously and substantively impair the ability of the district to pay obligations which are held by others.

(c) If a district expects commercial income in the future but does not have the demonstrated income in an amount adequate to discharge the loan when it matures, the district may pledge the expected commercial income as provided in Subsection (b) of this section and in addition, or as an alternative, may pledge with a power of sale its unsold bonds in a par amount which shall not be more than the amount of the loan plus 10 percent. The district is not required to impound the bonds. The rate of interest on the loan may not be more than six percent.

(d) After commercial income is pledged, it may not be used for any purpose except to pay the debt which it secures, and it shall be applied to the reduction of the secured debt as rapidly as practicable. (42nd Legis., 3rd C.S., Ch. 24, Sec. 3, sen. 10, 11, 12, 13.)

§ 51.382. Evidence of Debt

To evidence loans which are not secured by the sale of bonds, the district may execute and deliver to the lender certificates of indebtedness, notes, or obligations and may pledge its full faith and credit for their payment to the same extent that it may be pledged by district bonds. (42nd Legis., 3rd C.S., Ch. 24, Sec. 3, sen. 14.)

§ 51.383. Retiring Bonds

If bonds are impounded or pledged to secure a loan made to a district, as the loan is repaid a proportionate amount of the bonds may be withdrawn, cancelled, and retired. (42nd Legis., 3rd C.S., Ch. 24, Sec. 4.)

§ 51.384. Construction

The provisions of Sections 51.376–51.383 of this code shall be liberally and sympathetically construed so that the districts covered by these sections will have the fullest and most flexible powers to comply with all conditions precedent required of the borrower by the lender unless specifically limited by these sections. (42nd Legis., 3rd C.S., Ch. 24, Sec. 3, sen. 15.)

[Sections 51.385–51.400 reserved for expansion]

SUBCHAPTER K. ISSUANCE OF BONDS**Section 51.401. Authority to Issue Bonds of Districts Operating under Article III, Section 52, of the Texas Constitution**

A district which is operating under Article III, Section 52, of the Texas Constitution, may issue bonds and lend its credit in an amount of not more than one-fourth of the assessed valuation of the real property in the district. However, the total indebtedness of any city or town may never be more than the limits imposed by the Texas Constitution. (39th Legis., G.L., Ch. 25, Sec. 5 (part).)

§ 51.402. Authority to Issue Bonds of Districts Operating under Article XVI, Section 59, of the Texas Constitution

A district operating under Article XVI, Section 59, of the Texas Constitution, may incur debt evidenced by the issuance of bonds which is necessary to provide improvements and maintenance of improvements to achieve the purposes for which the district was created. (39th Legis., G. L., Ch. 25, Sec. 6 (part).)

§ 51.403. Amount of Debt Limited by Constitution

No district may issue bonds or create indebtedness in an amount which is more than that authorized by the Texas Constitution. (39th Legis., G.L., Ch. 25, Sec. 93.)

§ 51.404. Issuance of Preliminary Bonds

A district may issue preliminary bonds to create a fund to pay:

- (1) costs of organization;
- (2) costs of making surveys and investigations;
- (3) attorney's fees;
- (4) costs of engineering work;

- (5) costs of the issuance of bonds; and
- (6) other costs and expenses incident to organization of the district and its operation in investigating and determining plans for its plant and improvements and in issuing and selling bonds to provide for permanent improvements. (39th Legis., G.L., Ch. 25, Sec. 31, sen. 3.)

§ 51.405. Election on Preliminary Bonds

- (a) The proposition for the issuance of preliminary bonds shall be submitted to the electors of the district.
- (b) The election may be held at the same time as the election to confirm the creation of the district or at a later time.
- (c) The board shall make an estimate of the expenses to be paid with the proceeds of the preliminary bonds and shall include this estimate in the notice of election. (39th Legis., G.L., Ch. 25, Sec. 31, sen. 4, 5; and Sec. 32, sen. 1, as amended.)

§ 51.406. Conditions of Preliminary Bonds

- (a) After preliminary bonds have been authorized at an election, the board may order the issuance of the bonds in an amount which is not more than the amount stated in the notice of election.
- (b) The bonds may be paid serially or on amortization at any time not more than 10 years from their date.
- (c) Although the bonds will be known and designated in the records as preliminary bonds, it is not necessary to make this designation on the bonds. (39th Legis., G.L., Ch. 25, Sec. 31, sen. 7 (part), 8; and Sec. 32, sen. 2, 3, as amended.)

§ 51.407. Tax to Pay Preliminary Bonds

At the time preliminary bonds are issued, a tax shall be levied to pay principal and interest as the bonds mature and to pay the cost of assessing and collecting the taxes. (39th Legis., G.L., Ch. 25, Sec. 32, sen. 4, as amended.)

§ 51.408. Issuance of Bonds

- (a) After a district is created and has adopted plans for construction of a plant and improvements, it may issue bonds to pay for constructing the plant and improvements and to pay costs and charges incident to the construction including the cost of necessary property and the retirement of preliminary bonds.
- (b) The maximum amount of bonds which may be issued may not be more than the amount of the engineer's estimate plus the additional amounts added by the board in the election order. (39th Legis., G.L., Ch. 25, Sec. 78, sen. 1, as amended; and Sec. 79, sen. 3, as amended.)

§ 51.409. Purposes for Issuance of Bonds

The district may issue bonds to include:

- (1) the cost of organization of the district;
- (2) incidental expenses;
- (3) the cost of investigation and making plans;
- (4) the engineer's work and other incidental expenses;
- (5) the cost of retirement of preliminary bonds;
- (6) the cost of issuing and selling bonds;

- (7) the estimated discount on the bonds;
- (8) the cost of operation of district for the period of construction of the plant and improvements stated in the engineer's report;
- (9) an amount to pay interest on the bonds during the period stated in the engineer's report, which shall not be more than three years from the time the bonds are sold; and
- (10) any additional cost or expense made necessary by any change or modification made in the proposed work by the district. (39th Legis., G.L., Ch. 25, Sec. 79, sen. 1, 2 (part), as amended.)

§ 51.410. Engineer's Report

- (a) Before an election is held to authorize the issuance of bonds, an engineer's report, which includes the plans and improvements to be constructed together with maps, plats, profiles, and data showing and explaining the engineer's report, shall be filed in the office of the district and shall be available for public inspection.
- (b) The engineer's report shall contain a detailed estimate of the cost of improvements, including the cost of any property to be purchased, and an estimate of the time required to complete the improvements to the degree to which they may provide service.
- (c) The board shall consider the engineer's report and may make changes in the report and note them in the minutes. (39th Legis., G.L., Ch. 25, Sec. 78, sen. 2, 3, 4, as amended.)

§ 51.411. Election Order

- (a) After the engineer's report is filed and approved, the board may order an election in the district to authorize the issuance of the bonds.
- (b) In the order, the board shall estimate the total amount of money needed to cover the items listed in Section 51.409 of this code.
- (c) The election order shall state:
 - (1) the proposed maximum interest rate on the bonds;
 - (2) the maximum maturity date of the bonds;
 - (3) the time and places for holding the election; and
 - (4) the names of the election officers.
- (d) The election order shall be entered in the minutes of the board. (39th Legis., G.L., Ch. 25, Sec. 78, sen. 5, as amended; Sec. 79, sen. 2 (part), 4, as amended; and Sec. 83, sen. 1.)

§ 51.412. Notice of Election

- (a) Notice of the bond election, signed by the president and secretary of the board, shall be published once a week for four consecutive weeks in a newspaper with general circulation in the county or counties in which all or part of the district is located. The first publication shall be at least 28 days before the day of the election.
- (b) The notice shall include:
 - (1) the maximum amount of bonds to be issued;
 - (2) the proposed maximum interest rate;
 - (3) the maximum maturity date;
 - (4) the time and places for holding the election;
 - (5) a substantial statement of the proposition;
 - (6) a summary of the engineer's estimate of the cost of the proposed improvements; and
 - (7) a statement of any estimate or estimates made by the board in its order calling the election.

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(c) If a contract with the United States is proposed at the election, the notice shall state the maximum amount of money to be paid for construction purposes, exclusive of penalties and interest.

(d) A copy of the election notice, together with a copy of the published notice with the publisher's affidavit attached, shall be filed in the office of the district. (39th Legis., G.L., Ch. 25, Sec. 80, as amended; Sec. 82; and Sec. 83, sen. 2.)

§ 51.413. Ballots

(a) The proposition to be voted on shall be the issuance of the total amount of bonds covered by the engineer's estimate plus additional estimates made by the board.

(b) The ballots shall be printed to provide for voting for or against: "The issuance of bonds and the levy of taxes to pay for the bonds."

(c) If a contract is proposed with the United States under the federal reclamation laws, the ballots shall be printed to provide for voting for or against: "The contract with the United States and the levy of a tax to pay the contract." (39th Legis., G.L., Ch. 25, Sec. 79, sen. 6, as amended; and Sec. 81.)

§ 51.414. Vote at Election

(a) Bonds of a district operating under the provisions of Article III, Section 52, of the Texas Constitution, may be issued only with the approval of two-thirds of the electors of the district participating in the election.

(b) In a district organized under the provisions of Article XVI, Section 59, of the Texas Constitution, bonds may be issued or indebtedness created only with the approval of a majority of the electors of the district participating in the election. (39th Legis., G.L., Ch. 25, Sec. 8, 9.)

§ 51.415. Order to Issue Bonds or Execute Contract

After the vote is canvassed and the results are declared to be favorable to the proposition, the board shall make and enter an order directing the issuance of the bonds or the execution of a contract with the United States. The bonds or contract shall be in a sufficient amount to pay for the improvements together with all necessary incidental expenses, but the amount may not be more than the amount specified in the election order and notice of election. (39th Legis., G.L., Ch. 25, Sec. 87, sen. 1.)

§ 51.416. Record of Bond Proceedings Submitted to Attorney General

(a) After a district issues bonds other than preliminary bonds, but before they are sold, the record showing all the proceedings in the creation of the district and the issuance of the bonds shall be filed in the office of the attorney general.

(b) The attorney general shall examine the record and give his opinion on it.

(c) The record may be presented to the attorney general before the bonds are printed, and the bonds may be executed after the record is completed.

(d) After the record is approved, the bonds shall be issued or duly executed. (39th Legis., G.L., Ch. 25, Sec. 34, sen. 1, 2, 3 (part).)

§ 51.417. Approval and Registration of Bonds

(a) After the bonds are issued and executed, they shall be submitted to the attorney general for approval.

(b) If the attorney general finds that the bonds are issued according to law and are valid, binding obligations of the district, he shall officially certify the bonds and execute a certificate, which shall be filed with the comptroller and recorded in the book kept for that purpose.

(c) The bonds may not be registered with the comptroller until 20 days after the day of the election authorizing the issuance of the bonds. (39th Legis., G.L., Ch. 25, Sec. 34, sen. 3 (part), 4, 6.)

§ 51.418. Validity of Bonds

After the bonds are approved by the attorney general and registered by the comptroller, they shall be held to be valid, binding obligations of the district in any suit testing their validity. Any person interested in the bonds may file a suit before the bonds are registered to test the validity, but may not bring suit to test validity after the bonds are registered. (39th Legis., G.L., Ch. 25, Sec. 34, sen. 5.)

§ 51.419. Conditions of Bonds

(a) The bonds may be issued to mature at the end of a term of years or to mature serially at any date which is not later than the maximum maturity date stated in the election order.

(b) The bonds may be issued at any rate of interest which is not more than the rate of interest set in the election order. (39th Legis., G.L., Ch. 25, Sec. 79, sen. 5, as amended.)

§ 51.420. Form of Bonds

(a) The bonds shall be issued in the name of the district and shall be signed by the president and attested by the secretary, with the seal of the district attached.

(b) The bonds shall be issued in denominations of not less than \$100 but not more than \$1,000 and shall be payable annually or semiannually.

(c) The board shall determine and include in the bonds the time, place, manner, and condition of payment of principal and interest on the bonds, but none of the bonds may be made payable more than 40 years from their date.

(d) The lien for payments due to the United States under a contract that was not accompanied by a deposit of bonds with the United States shall be a preferred lien to that of any issue of bonds or any series of any issue of bonds subsequent to the date of the contract. (39th Legis., G.L., Ch. 25, Sec. 86, as amended.)

§ 51.421. Authority of Commission over Issuance of District Bonds

(a) As used in this section and Section 51.422 of this code, "designated agent" means any licensed engineer selected by the commission to perform the functions specified in those sections.

(b) The commission shall investigate and report on the organization and feasibility of all districts that issue bonds under this chapter.

(c) Any district that desires to issue bonds under this chapter shall submit to the commission a written application for investigation, together with copies of the engineer's report and data, profiles, maps, plans, and specifications prepared in connection with the engineer's report.

(d) The commission or its designated agents shall examine the application and accompanying documents and shall visit and carefully inspect the project. The commission or its designated agents may request and shall be supplied with additional data and information requisite to a reasonable and careful investigation of the project and proposed improvements.

(e) The commission or its designated agents shall file in their office written suggestions for changes and improvements and shall furnish a copy of the report to the board of the district.

(f) If the commission approves or refuses to approve the project or the issuance of bonds for the improvements, it shall make a full written report which it shall file in its office and a copy of the report shall be furnished to the district. (39th Legis., G.L., Ch. 25, Sec. 139, sen. 1, 2, 3, 4, 5, 12, as amended.)

§ 51.422. Commission Supervision of Projects and Improvements

(a) During construction of projects and improvements approved by the commission, no substantial alterations may be made in the plans and specifications without the approval of the commission.

(b) The commission or its designated agent may inspect the improvements at any time during construction to determine if the project is being constructed in accordance with the plans and specifications approved by the commission.

(c) If the commission finds that the project is not being constructed in accordance with the approved plans and specifications, it shall give written notice immediately by certified mail to each member of the board of the district and the district's manager.

(d) If within 10 days after the notice is mailed the board of the district does not take steps to insure that the project is being constructed in accordance with the approved plans and specifications, the commission shall give written notice of this fact to the attorney general.

(e) After the attorney general receives this notice, he may bring an action for injunctive relief or quo warranto proceedings against the directors. Venue for either suit is exclusively in a district court in Travis County. (39th Legis., G.L., Ch. 25, Sec. 139, sen. 6, 7, 8, 9, 10, 11, as amended.)

§ 51.423. Validation Suit

(a) A district may file a suit to determine the validity of the creation of the district and the bonds.

(b) If requested by the secretary of the interior, the district shall file a suit to validate a contract made with the United States.

(c) If a validation suit is filed, the bonds do not have to be approved by the attorney general. (39th Legis., G.L., Ch. 25, Sec. 95, sen. 1 (part), 3, as amended; and Sec. 96, sen. 2.)

§ 51.424. Effect of Prior Registration

If bonds are approved by the attorney general and registered by the comptroller before a validation suit is filed, the filing of the suit cancels the prior registration. (39th Legis., G.L., Ch. 25, Sec. 97, sen. 5.)

§ 51.425. Procedure in Validation Suit

(a) A validation suit shall be brought by the district in the district court of any county in which all or part of the district is located or in a district court in Travis County.

- (b) The suit shall be in the nature of a proceeding in rem.
- (c) Any person who is interested in the suit may intervene and file an answer.
- (d) The issue shall be tried and determined by the court and judgment shall be entered on the findings.
- (e) A validation suit has preference over all other suits to allow a speedy determination. (39th Legis., G.L., Ch. 25, Sec. 96, sen. 1, 3 (part); and Sec. 97, sen. 3, 4, 6.)

§ 51.426. Notice of Validation Suit

- (a) To obtain jurisdiction of all parties to the validation suit, a general notice shall be published.
- (b) The notice shall be published once a week for at least two consecutive weeks before the term of the court at which the notice is to be returned. The notice shall be published in a newspaper with general circulation in the county or counties in which the district is located, but if no newspaper is published inside the district, the notice shall be published in a newspaper in the nearest county in which a paper is published.
- (c) Notice also shall be served on the attorney general in the manner provided in civil suits.
- (d) The attorney general may waive notice if he is furnished a full transcript of the proceedings held in connection with the creation of the district and the issuance of the bonds or held in connection with the authorization of a contract with the United States. A copy of the contract with the United States also must be furnished. (39th Legis., G.L., Ch. 25, Sec. 96, sen. 3 (part), 4, 5, 6.)

§ 51.427. Duties of Attorney General in Validation Suit

- (a) The attorney general shall examine all the proceedings and shall require any further evidence and make any further examination which he considers advisable.
- (b) The attorney general then shall file an answer to the suit, submitting the issue of whether the proceedings are valid and the bonds are legal and binding obligations of the district or whether the contract with the United States is legal and binding on the district. (39th Legis., G.L., Ch. 25, Sec. 97, sen. 1, 2.)

§ 51.428. Judgment in Validation Suit

- (a) After the trial of the validation suit, if the judgment of the court is adverse to the district on any issue, the district may make an exception and point out the error, and the error may be corrected by the judge in the manner directed by the court.
- (b) The judgment shall be rendered showing that the corrections have been made and that the bonds or the contract with the United States are binding obligations of the district.
- (c) After the judgment is entered, it is res judicata in all cases which may arise in connection with:
 - (1) the collection of the bonds or their interests;
 - (2) any taxes levied to pay charges or any money required to pay a contract with the United States; and
 - (3) all matters relating to the organization and validity of the district or the validity of the bonds or contract. (39th Legis., G.L., Ch. 25, Sec. 98.)

§ 51.429. Effect of Validation Suit

(a) After a final judgment is rendered in the validation suit, the bonds or the contract with the United States shall be incontestable.

(b) No suit may be brought in any court of this state to contest or enjoin the validity of the creation of the district, any bonds which are issued, any contract with the United States, or the authorization of a contract with the United States except in the name of the State of Texas by the attorney general on his own motion or on the motion of any party affected on good cause shown.

(c) The attorney general may not file or prosecute such a suit unless it is based on allegations of fraud disclosed or found after the final judgment in the validation suit was rendered. (39th Legis., G.L., Ch. 25, Sec. 95, sen. 1 (part), 2, as amended.)

§ 51.430. Certified Copy of Decree

(a) After the judgment of the district court is entered, the clerk of the court shall make a certified copy of the decree which shall be filed with the comptroller. The comptroller shall record the decree in the book kept for that purpose.

(b) The certified copy of the decree or a certified copy of the comptroller's record of the decree shall be received in evidence in any suit which may affect the validity of the organization of the district or the validity of the bonds or the contract and shall be conclusive evidence of validity. (39th Legis., G.L., Ch. 25, Sec. 99.)

§ 51.431. Registration of Bonds and Decree

On the presentation of the bonds together with a certified copy of the decree of the court, the comptroller shall register the bonds in a book kept for that purpose. The comptroller shall attach to each bond a certificate stating that the court's decree has been filed and recorded in his office and shall sign the certificate and attach his official seal. (39th Legis., G.L., Ch. 25, Sec. 100.)

§ 51.432. Sale of Bonds

(a) After the bonds are issued by the district, the board shall sell the bonds on the best terms and for the best price possible.

(b) The board shall pay the proceeds from the sale of the bonds to the district depository.

(c) The district may exchange bonds for property acquired by purchase or to pay the contract price of work done for the use and benefit of the district. (39th Legis., G.L., Ch. 25, Sec. 101, as amended.)

§ 51.433. Tax Levy

(a) At the time bonds are voted, the board shall levy a tax on all property inside the district in a sufficient amount to redeem and discharge the bonds at maturity.

(b) The board annually shall levy or have assessed and collected taxes on all property inside the district in a sufficient amount to pay for the expenses of assessing and collecting the taxes.

(c) If a contract is made with the United States, the board annually shall levy taxes on property inside the district in a sufficient amount to pay installments and interest as they become due.

(d) The board may issue the bonds in serial form or payable in installments, and the tax levy shall be sufficient if it provides an amount sufficient to pay the interest on the bonds, the proportionate amount of the principal of the next maturing bonds, and the expenses of assessing and collecting the taxes for that year. (39th Legis., G.L., Ch. 25, Sec. 90.)

§ 51.434. Adjustment of Tax Levy

(a) The tax levy made in connection with the issuance of bonds shall remain in force from year to year until a new levy is made.

(b) The board may from time to time increase or diminish the tax to adjust it for the taxable values of the property subject to taxation by the district and the amount required to be collected.

(c) The board shall raise an amount sufficient to pay the annual interest of and principal on all outstanding bonds. (39th Legis., G.L., Ch. 25, Sec. 91, sen. 1, 2.)

§ 51.435. Changing Tax Rate

If the tax levied is based on the assessed value obtained from the county tax rolls, or the tax rolls of the district for the preceding year and new tax rolls are approved before the time for collection of taxes, the board may change the tax rate provided the new rate is sufficient when applied to the new assessed value to raise the needed amount. (39th Legis., G.L., Ch. 25, Sec. 32, sen. 5, as amended.)

§ 51.436. Interest and Sinking Fund

(a) The district shall have an interest and sinking fund which shall include all taxes collected under this chapter.

(b) Money in the interest and sinking fund may be used only:

(1) to pay principal and interest on the bonds;

(2) to defray the expenses of assessing and collecting the taxes;
and

(3) to pay principal and interest due under a contract with the United States if bonds have not been deposited with the United States.

(c) Money in the fund shall be paid out of the fund on warrants by order of the board as provided in this chapter.

(d) The depository shall receive and cancel each interest coupon and bond as it is paid and shall deliver it to the board to be recorded, cancelled, and destroyed. (39th Legis., G.L., Ch. 25, Sec. 94; and Sec. 105, sen. 2.)

§ 51.437. Investment of Sinking Fund

(a) The board may invest any portion of the sinking fund of the district in bonds of the United States, the state, any county or city in the state, any irrigation or water improvement district, school district, or other tax bonds issued under the laws of the state.

(b) The funds may be invested if the bonds to be paid with them do not mature within three years from the time the investment is made and if it is necessary to preserve the best interest of the district. (39th Legis., G.L., Ch. 25, Sec. 91, sen. 3.)

§ 51.438. Refunding Bonds

(a) The district may refund any bonds issued by it by issuing new bonds.

(b) Refunding bonds may be issued only if the old bonds are taken in exchange at their face value or less or new bonds can be sold at a premium and the old bonds retired without loss to the district.

(c) The comptroller may not register the refunding bonds until the old bonds for which the refunding bonds are being issued are presented to him for cancellation or until a valid contract providing for the purchase or exchange of the old bonds is executed and a copy filed in his office.

(d) The comptroller shall keep the refunding bonds until the old bonds are presented to him for exchange or payment, and if the old bonds are presented for payment, the district shall pay them before the refunding bonds are registered. (39th Legis., G.L., Ch. 25, Sec. 92.)

§ 51.439. Limitation of Authority to Incur Debt and Issue Bonds

(a) For the benefit of purchasers or holders of bonds to be issued or sold, the board of a district operating under the provisions of Article XVI, Section 59, of the Texas Constitution, may limit the authority of the district to incur debt or issue bonds.

(b) The board shall limit the authority by adopting a resolution which states that during a period of not more than 15 years the district will not issue bonds in an amount of more than 25 percent of the assessed value of taxable real property in the district according to the last assessment for district purposes or in an amount of more than a fixed sum or for certain named purposes.

(c) The board shall publish notice of the adoption of the resolution once a week for two consecutive weeks in a newspaper with general circulation in the district. The notice shall state that the resolution will take effect unless a petition against the proposed limitation signed by 20 percent of the electors of the district is presented within 20 days after the first publication of the notice.

(d) If a petition is filed against the limitation, the resolution will not take effect until it is approved at an election held in the district.

(e) The ballots for the election shall be printed to provide for voting for or against: "The limitation during the term of _____ years of the maximum debt of the district to _____." (The blank spaces shall be filled with the purpose of the election.)

(f) If the limitation is approved at an election or if no petition is filed against the resolution, the district may not issue bonds under any statute or constitutional provision in excess of the limitation during the designated term of years except to complete and make repairs to improvements whose cost will be within the debt limitation. (39th Legis., G.L., Ch. 25, Sec. 85, sen. 1, 2, 3, 4, 5, 6 (part), as amended.)

§ 51.440. Issuing Bonds in Excess of Limitation

(a) A district may issue bonds in excess of a limitation made under Section 51.439 of this code only after the commission has approved the plans and specifications with the estimate of costs.

(b) If the plans, specifications, and estimate are approved, notice of the intention to issue the bonds shall be published once a week for three consecutive weeks in a newspaper with general circulation in the district. The notice shall include a statement of the purpose for issuing the bonds, the amount of the proposed bond issue, and the time the hearing is to be held, which may not be less than 30 days after the notice is first published.

(c) The board shall hold the hearing and any taxpayer, bondholder, or other interested person may appear and be heard.

(d) If the board approves the issuance of the additional bonds in the amount and for the purpose stated in the notice, the question of issuing the bonds shall be submitted to the electors of the district at an election. (39th Legis., G.L., Ch. 25, Sec. 85, sen. 6 (part), 7, 8, 9, 10, as amended.)

§ 51.441. Modifications of Improvements

(a) After bonds are issued or a contract is entered into with the United States, the board may give notice of an election to be held to authorize the issuance of additional bonds or a further contract with the United States.

(b) Additional bonds may be issued or a supplemental contract made if the board considers it necessary to:

- (1) make modifications in the district or its improvements;
- (2) construct further or additional improvements and issue additional bonds on the report of the engineer;
- (3) make a supplemental contract with the United States;
- (4) make, on its own motion, additional improvements or purchase additional property to accomplish the purposes of the district and to serve the best interest of the district.

(c) The board shall enter its findings in the minutes.

(d) The election shall be held and the returns made in the manner provided in this chapter for the original election.

(e) If the result of the election favors the issuance of the bonds or the supplemental contract with the United States, the board may order the bonds issued or the contract made with the United States in the manner provided in this chapter.

(f) If a supplemental contract is made with the United States and bonds are not to be deposited with the United States, it is not necessary to issue bonds. If the district is required to raise money in addition to the amount of the contract, the bonds shall be issued only in the additional amount needed. (39th Legis., G.L., Ch. 25, Sec. 88.)

§ 51.442. Issuance of Additional Bonds or Creation of Additional Indebtedness under Certain Conditions

(a) A district may issue additional bonds or create additional indebtedness:

- (1) if works, improvements, and facilities constructed under a plan provided in Section 51.410 or 51.422 of this code are inadequate to accomplish the beneficial results which the district's location and conditions demand;
- (2) if it is considered necessary to make repairs, replacements, or additions to the district's improvements which cost more than \$25,000; or
- (3) if additional money is needed to complete the improvements as planned.

(b) The district shall provide the additional money for the particular purpose in accordance with the provisions of this chapter regulating the creation of bond obligations subject to every limitation with respect to the original proceedings and the substantial protection of the substantive rights of holders of any of the district's outstanding obligations. (39th Legis., G.L., Ch. 25, Sec. 89, as amended.)

§ 51.443. Interim Bonds

After bonds, other than preliminary bonds or notes, are voted by a district, the board may declare an existing emergency with relation to money being unavailable to pay for engineering work, purchase of land, rights-of-way, construction sites, construction work, and legal and other necessary expenses and may issue interim bonds on the faith and credit of the district in the manner provided in Sections 51.444–51.449 of this code to pay these expenses. (39th Legis., G.L., Ch. 25, Sec. 84—a, sen. 1, as amended.)

§ 51.444. Limitations on Interim Bonds

(a) Interim bonds shall mature not later than 10 years from the date they are issued and shall be redeemable at any time before they mature, as provided in this subchapter.

(b) The principal amount of the interim bonds may not be more than 25 percent of the principal amount of the district's bonds which have been voted but not sold.

(c) Before the issuance of the interim bonds, the board, by resolution, may limit the issue to any amount less than 25 percent, and after the amount is determined and fixed by the resolution, no additional interim bonds may be issued and sold until all outstanding interim bonds are paid. (39th Legis., G.L., Ch. 25, Sec. 84—a, sen. 2, 3, as amended.)

§ 51.445. Issuance of Bonds and Levy of Tax

(a) After bonds other than preliminary bonds are voted, the board may authorize the issuance of the bonds in whole or in part as they are needed by the district.

(b) The board shall levy and annually assess and collect sufficient taxes to pay principal and interest on the bonds.

(c) The bonds may be approved by the attorney general and registered by the comptroller before the filing of the report of the Texas Water Rights Commission under Section 51.421 of this code. (39th Legis., G.L., Ch. 25, Sec. 84—a, sen. 4, 5, as amended.)

§ 51.446. Deposit of Bonds to Secure Interim Bonds

(a) As the interim bonds are issued and sold, the board, by order, shall deposit bonds of the district which have been validated by a court or approved by the attorney general and registered by the comptroller as provided in Section 51.417 of this code in the district depository.

(b) The bonds deposited shall be credited to the interest and sinking fund account created to pay the interim bonds.

(c) The principal amount of the bonds deposited shall total at least 110 percent of the principal sum of the series of interim bonds which the bonds are deposited to secure.

(d) The interest rate on the interim bonds may not be more than the interest rate on the bonds deposited to secure them. (39th Legis., G.L., Ch. 25, Sec. 84—a, sen. 6, 7, as amended.)

§ 51.447. Procedure for Issuance and Sale of Interim Bonds

(a) Interim bonds shall be issued in the name of the district, signed by the president, and attested by the secretary, with the district seal attached to each bond.

(b) The interim bonds may be issued in the denominations determined by the board and shall be approved by the attorney general and registered by the comptroller in the same manner as provided in Section 51.417 of this code.

(c) Interim bonds may be sold in the same manner and on the same terms provided by law for the sale of other bonds of the district.

(d) If interim bonds are sold at less than par value and accrued interest, the improvement bonds issued by the district must be sold at an increase over the price authorized by law in an amount sufficient to equal the discount allowed on the interim bonds. (39th Legis., G.L., Ch. 25, Sec. 84—a, sen. 8, as amended.)

§ 51.448. Payment of Interim Bonds

(a) The board shall appropriate the tax levied to pay the bonds deposited to the credit of the interest and sinking fund to pay the interim bonds or as much of that tax as necessary to secure the loan evidenced by the interim bonds.

(b) The proceeds of the tax shall be devoted exclusively to the payment of the principal and interest on the interim bonds.

(c) None of the provisions of this subchapter relating to interim bonds shall be construed as prohibiting the sale of bonds deposited to the credit of the interest and sinking fund to pay interim bonds or of any other bonds of the district, but if any of these bonds are sold, the district depository shall apply the proceeds to the payment of principal and accrued interest on the interim bonds and the remainder to the purposes for which the bonds were authorized.

(d) If none of the bonds are sold at the time an installment on the principal and interest of interim bonds matures, the depository shall cancel the deposited bonds and attached interest coupons in an amount equal to the principal and interest of the interim bonds paid off and discharged. (39th Legis., G.L., Ch. 25, Sec. 84—a, sen. 9, as amended.)

§ 51.449. Redemption of Interim Bonds

(a) At the option of the board, interim bonds may be redeemed at any time or times before maturity on payment by the district of the principal and accrued interest to the date fixed for redemption by the board.

(b) When interim bonds are called for redemption before maturity, the secretary shall give written notice of the redemption to the bank or banking house named as the place of payment in the bonds or to its successor or assign.

(c) In the notice, the secretary shall designate the bond or bonds called for redemption and payment and shall state number or numbers of the bonds.

(d) The notice shall include the redemption date which shall not be more than 60 days after the date notice of call for payment is made.

(e) If any of the bonds which are called for redemption are not presented, they shall cease to bear interest from and after the date fixed for redemption. (39th Legis., G.L., Ch. 25, Sec. 84—a, sen. 10, 11, 12, as amended.)

§ 51.450. Alternate Methods for Paying Bonds

(a) As used in this section and in Sections 51.450–51.454 of this code, "net revenue" means income or increment which may come from ownership and operation of the improvements which are encumbered less the

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proportion of the district's revenue income reasonably required to provide for administration, efficient operation, and adequate maintenance of the district's services and facilities which are encumbered. Net revenue does not include money derived from taxation.

(b) A district which expects net revenue from operations may secure its bonds in any one of the following:

- (1) as provided in Section 51.433 of this code;
- (2) by entering into a contract to pledge the net revenue of the district and to mortgage and encumber part or all of the property and facilities, franchise, revenue and income from operations, and everything acquired or to be acquired by the district; or
- (3) as provided in both Subdivisions (1) and (2) of this subsection. (39th Legis., G.L., Ch. 25, Sec. 90a, sen. 1, 2, as amended.)

§ 51.451. Taxes to Secure Certain Bonds

(a) If bonds are secured as provided in Section 51.450(b)(3) of this code, at the time that net revenue together with money derived from taxes accumulates a surplus in the sinking fund equal to the amount required in the succeeding year to liquidate the interest and principal on the district's bonds maturing in that year, the district's annual tax levies may be lowered to produce not less than 25 percent of the bond maturities for the succeeding year.

(b) If three successive years demonstrate that this net revenue is adequate to protect the district's bonds as they mature, the district's tax may be discontinued until further experience demonstrates the necessity to continue the tax to avoid default in the payment of the district's bonds as they mature. (39th Legis., G.L., Ch. 25, Sec. 90a, sen. 3 (part), as amended.)

§ 51.452. Election

(a) If the district proposes to issue bonds which will be secured under either Section 51.450(b)(2) or 51.450(b)(3) of this code, the proposition shall be presented at an election held under Section 51.413 of this code.

(b) The ballots for the election shall be printed to provide for voting for or against one of the following propositions:

- (1) "The issuance of bonds and the pledge of net revenue for the payment of the bonds.";
- (2) "The issuance of bonds, the pledge of net revenue, and the creation of a lien on physical property to secure payment of the bonds.";
- or
- (3) "The issuance of bonds, the pledge of net revenue, and the levy of adequate taxes to pay the bonds." (39th Legis., G.L., Ch. 25, Sec. 90a, sen. 3 (part), as amended.)

§ 51.453. Hearing and Election on Certain Bonds

(a) A district which plans to issue bonds payable from and secured by a pledge of net revenue and a lien on the physical property, either or both, without the levy of taxes, is not required to hold a hearing to exclude land or adopt a plan of taxation.

(b) The proposition for issuance of bonds may be submitted at the election held to confirm the creation of the district or at an election called by the board. (39th Legis., G.L., Ch. 25, Sec. 90a, sen. 4, 5, as amended.)

§ 51.454. Hearing before Issuing Certain Bonds

If a district issues its original bonds under Section 51.450(b)(2) of this code and later desires to issue bonds payable in whole or in part from taxes or to levy a tax for maintenance purposes, the district shall hold a hearing to exclude land, and at the time provided by law, shall hold another hearing to adopt a plan of taxation. These hearings shall be held before an election is called to approve the issuance of tax-supported bonds or the levy of a maintenance tax. (39th Legis., G.L., Ch. 25, Sec. 90a, sen. 6, as amended.)

§ 51.455. Issuance of Revenue Bonds to Construct Extensions and Improvements to Certain Systems

(a) A district which has adopted a plan for improvements designed to furnish a water and sewer system may also issue its revenue bonds as provided in Section 51.450(b)(2) of this code to construct extensions and improvements to the water and sewer system or to an irrigation system.

(b) The district may pay the revenue bonds by entering into contracts to pledge the net revenue derived from the sale of water for irrigation purposes and service charges obtained from the sale and distribution of water for irrigation purposes.

(c) The bonds may be issued in one or more issues under the terms and conditions considered by the board to be advisable. (39th Legis., G.L., Ch. 25, Sec. 90b, as added.)

[Sections 51.456–51.500 reserved for expansion]

SUBCHAPTER L. TAX PLAN**Section 51.501. Tax to Pay Preliminary Bonds**

Taxes to pay principal and interest on preliminary bonds shall be levied and collected on the ad valorem basis. (39th Legis., G.L., Ch. 25, Sec. 77a, sen. 1, as added.)

§ 51.502. Hearing to Determine Basis of Taxation

After the board adopts plans for construction of a plant and improvements to accomplish the purposes of the district and after an election is held to authorize the issuance of construction bonds and the levy of a tax to pay for the bonds, the board shall hold a public hearing to determine whether the taxes to pay the construction bonds and maintenance, operation, and administrative costs of the district shall be levied, assessed, and collected on:

- (1) the ad valorem basis;
 - (2) the basis of assessment of specific benefits;
 - (3) the basis of assessment of benefits on an equal sum per acre;
- or
- (4) the ad valorem basis for part of the total tax or defined area or property and on the benefit basis for the other part of the tax or defined area or property. (39th Legis., G.L., Ch. 25, Sec. 77a, sen. 2, 3, 4, 5, as added.)

§ 51.503. Notice of Hearing

Notice of the time and place of the hearing and the proposition to be determined shall be published once a week for two consecutive weeks in one or more newspapers with general circulation in the district. The first publication shall be made not less than 10 days before the day of the hearing set in the notice. (39th Legis., G.L., Ch. 25, Sec. 77a, sen. 6, as added.)

§ 51.504. Conduct of Hearing

(a) At the hearing, any person who is a taxpayer in the district may appear and offer testimony to show which plan of taxation will be most conducive to equitable distribution of taxes.

(b) The hearing may be adjourned from day to day until all persons wishing to testify have been heard. (39th Legis., G.L., Ch. 25, Sec. 77a, sen. 7, 8, as added.)

§ 51.505. Order

(a) The board shall adopt the plan of taxation which will, in its judgment under the evidence, be most conducive to the equitable distribution of the district's tax.

(b) If the plan adopted by the board is made under the provisions of Section 51.512 of this code, the order shall specify the proportion of the tax which falls under each designated classification.

(c) The order of the board is final and cannot be reviewed or questioned in any court except on the ground of fraud or palpable and arbitrary abuse of discretion. (39th Legis., G.L., Ch. 25, Sec. 77a, sen. 9, 10, as added.)

§ 51.506. Changing Tax Plan

If after a tax plan is adopted the directors find that the best interest of the district and the necessity to maintain adequately and equitably the district's tax requires a change in the tax plan, the board may give notice, hold a hearing, and determine a new plan in the manner provided in Sections 51.502–51.505 of this code. (39th Legis., G.L., Ch. 25, Sec. 77a, sen. 11, as added.)

§ 51.507. Effect of Sections 51.501–51.506 of Code

Nothing in Sections 51.501–51.506 of this code shall be held to alter provisions of this chapter relating to districts which have contracts with the United States or to alter or impair the provisions of this code relating to taxes levied to provide local improvements to a defined area which do not affect the entire district. (39th Legis., G.L., Ch. 25, Sec. 77a, sen. 12, as added.)

§ 51.508. Unlimited Authority to Collect Service Charges and Taxes

The provisions of this subchapter do not alter or impair the right of a district to make, establish, and collect maintenance and operation charges for service rendered; to levy and collect taxes to secure funds to maintain, repair, and operate all works and facilities; and to give and maintain proper service for the purposes of its organization. (39th Legis., G.L., Ch. 25, Sec. 77a, sen. 13, as added.)

§ 51.509. Lien Created; No Limitation

Taxes, charges, or assessments imposed by a district for maintenance and operation of works, facilities, and services of the district shall constitute a lien against the land to which the taxes, charges, or assessments have been established. No law providing limitation against actions for debt shall apply. (39th Legis., G.L., Ch. 25, Sec. 77a, sen. 14, as amended.)

§ 51.510. Purpose of Sections 51.511–51.530 of Code

The purpose of Sections 51.511–51.530 of this code is to give a district the flexibility of taxing power which will permit and cause the tax of the district to be equitably distributed and which will give the highest practicable degree of service under the peculiar physical and economic conditions of the district. To this end, these sections shall be liberally and sympathetically construed. (39th Legis., G.L., Ch. 25, Sec. 130, sen. 2, as amended.)

§ 51.511. Authority to Adopt Alternative Plans of Taxation

A district operating under the provisions of Article XVI, Section 59, of the Texas Constitution, shall adopt a tax plan under the alternative provisions of Sections 51.512–51.530 of this code either at the time of its creation or before the appointment of commissioners of appraisement under this chapter. (39th Legis., G.L., Ch. 25, Sec. 130, sen. 1, as amended.)

§ 51.512. Alternative Plans of Taxation

(a) The district's taxes for all purposes, except to pay the cost of preliminary surveys, may be levied, assessed, and collected on an adopted basis to be chosen from the alternatives provided in this section.

(b) The district's tax plan may be based on any one of the following:

(1) ad valorem basis;

(2) benefit basis;

(3) ad valorem basis to obtain a part or percentage of the total tax or to apply to a specific part of the district and benefit basis applied to the other part of percentage of the tax or to the remaining part of the district; or

(4) either ad valorem or benefit basis on designated property or defined areas of the district to pay for improvements, facilities, or service peculiar to the defined part of the district and not generally and directly benefiting the district as a whole. (39th Legis., G.L., Ch. 25, Sec. 130, sen. 3, as amended.)

§ 51.513. Adoption of Plan of Taxation

(a) Except as provided in Section 51.512(b)(4) of this code, before the commission of appraisement is appointed and the construction bonds are sold, the board shall adopt a proposed plan of taxation as provided in Sections 51.502–51.505 of this code.

(b) If the tax plan is not based wholly on the ad valorem basis or on the benefit basis, the order adopting the proposed plan shall specify the portion of the tax to be based on the ad valorem basis and the portion to be based on the benefit basis. The board also shall state the physical and economic reasons, the peculiar diverse local needs, or the comparative potential benefits of different areas of designated property in the district which make it necessary or equitable to levy all or part of the tax on a

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defined part of the district on the ad valorem or benefit basis. (39th Legis., G.L., Ch. 25, Sec. 130, sen. 5, 6, as amended.)

§ 51.514. Notice of Adoption of Plan and Hearing

(a) After the tax plan is adopted, the board shall publish notice once a week for two consecutive weeks in one or more newspapers with general circulation in the county or counties in which the district is located.

(b) The notice shall state:

(1) that the tax plan has been adopted;

(2) that the plan is available for public inspection in the district's office;

(3) that a hearing on the plan will be held by the board at a specified place and at a particular time, which shall not be less than 15 days nor more than 20 days after the first publication of notice; and

(4) that all interested persons may appear and support or oppose all or part of the proposed tax plan and offer testimony. (39th Legis., G.L., Ch. 25, Sec. 130, sen. 7, as amended.)

§ 51.515. Order Adopting Tax Plan

(a) After all persons have been heard, the board may approve the proposed tax plan or may change or modify the plan.

(b) The board shall adopt a tax plan which it considers, under the evidence before it, most equitably distributes the tax burden and conserves the public welfare.

(c) The board shall enter its order establishing the tax plan, and the plan shall become the basis for the assessment and collection of taxes until the district adopts a different plan.

(d) The order is not subject to judicial review except on the ground of fraud, palpable error, or arbitrary and confiscatory abuse of discretion.

(e) A new plan may be adopted if required to preserve equity of distribution in the manner provided for adopting the original plan; however, no change may be made in the tax plan which will impair the ability of the district promptly to meet all outstanding obligations of the district within the intent of Sections 51.434 and 51.437 of this code. (39th Legis., G.L., Ch. 25, Sec. 130, sen. 8, 9, 10, as amended.)

§ 51.516. Obtaining Funds to Construct, Administer, Maintain, and Operate Improvements and Facilities in Defined Part of District

On adoption of the plan of taxation provided in Section 51.512(b)(4) of this code, the district, under the limitations of this subchapter, may apply separately, differentially, equitably, and specifically its taxing power and lien to a defined area or designated property to provide money to construct, administer, maintain, and operate improvements and facilities peculiar to the defined area or the designated property. (39th Legis., G.L., Ch. 25, Sec. 130, sen. 4, as amended.)

§ 51.517 Adoption of Tax Plan for Only Part of District

If a district adopts the tax plan and assumes the powers in Section 51.512(b)(4) of this code, or if required to conserve and protect the public welfare, the district, in the manner provided in Sections 51.518-51.524 of this code, may provide, pay for, maintain, and operate improvements, service, or facilities peculiar to a designated area or defined property

which do not affect the whole district. (39th Legis., G.L., Ch. 25, Sec. 130, sen. 11 (part), as amended.)

§ 51.518. Defining Area and Designating Property to be Benefited by Improvements; Adopting Tax Plan

(a) The board shall define the particular area to be taxed by metes and bounds or designate the property to be served, affected, and taxed.

(b) The board shall adopt a plan for improvements in the defined area or to serve the designated property in the manner provided in Sections 51.410–51.411 of this code.

(c) The board shall adopt a plan of taxation to apply to the defined area or designated property which may or may not be in addition to other taxes imposed by the district on the same area or property. The proportional tax or income contributions of the defined area or designated property and the proportional and equitable interest of the entire district shall be taken into consideration in imposing any tax to an area or piece of property. (39th Legis., G.L., Ch. 25, Sec. 130, sen. 11 (part), 12 (part), as amended.)

§ 51.519. Notice and Hearing

The board shall give notice and hold a hearing in the same manner and for the same purpose as provided in Sections 51.514–51.515 of this code. (39th Legis., G.L., Ch. 25, Sec. 130, sen. 12 (part), as amended.)

§ 51.520. Board's Order

At the hearing, if the board decides to define and serve the proposed separate tax area or separate designated property, it shall enter an order in the record, and if the proposal involves the issuance of bonds, the board shall call an election in the whole district. (39th Legis., G.L., Ch. 25, Sec. 130, sen. 13 (part), as amended.)

§ 51.521. Procedure for Election

(a) The election shall conform to the provisions of this code relating to an election to authorize the issuance of construction bonds.

(b) The board shall submit the appropriate issues to the electors, and the issues may be submitted on the same ballot to be used in another election.

(c) The notice of election shall define the area to be designated and the plan of taxation to be applied. (39th Legis., G.L., Ch. 25, Sec. 130, sen. 13 (part), as amended.)

§ 51.522. Election not Required in Separate Election Precinct

If proposed improvements are considered to be required to promote the public welfare or if the owners of the land in a defined area file a petition acknowledged as required for deeds requesting the district to provide improvements and assess a tax only in the defined area, it is not necessary to constitute the area a separate election precinct and have a separate election in that area. (39th Legis., G.L., Ch. 25, Sec. 130, sen. 18, as amended.)

§ 51.523. Ballots

The ballot for an election under this subchapter shall be printed to provide for voting for or against substantially the proposition: "Designa-

tion of the area, issuance of bonds, and levy of a tax to retire the bonds," (39th Legis., G.L., Ch. 25, Sec. 130, sen. 19 (part), as amended.)

§ 51.524. Declaring Result and Issuing Order

If a majority of the electors approve the proposal, the board shall declare the result and, by order, shall establish the area and define it by metes and bounds or designate the specific property and shall fix the tax basis for the area or property. A certified copy of the order shall be recorded in the minutes of the district and shall constitute notice. (39th Legis., G.L., Ch. 25, Sec. 130, sen. 19 (part), as amended.)

§ 51.525. Pledge of Faith and Credit

If at an election the electors approve the issuance of bonds and the levy of a tax which applies only to a defined area, the district may issue bonds which pledge only the faith and credit based on the property values in the defined area; however, the district may pledge the full faith and credit of the entire district under the condition of authorization in Section 51.529 of this code. (39th Legis., G.L., Ch. 25, Sec. 130, sen. 17, as amended.)

§ 51.526. Election in Separate Election Precinct

(a) If the improvements to be provided in a defined area are considered peculiarly for the benefit of that area and not required to conserve the public or general welfare in the district as a whole, and if the proposed improvements in that area will require the imposition of a tax only on the property in the area, the defined area is constituted a separate election precinct in which a separate election shall be held to determine if the improvements will be provided and a separate tax levied.

(b) The election shall be held in the manner provided for issuance of bonds under this subchapter.

(c) If a majority of the electors in the defined area approve the propositions, the district shall provide money when necessary and shall provide the improvements and levy the tax.

(d) At an election in the defined area, each qualified elector of the district who owns property in the defined area may elect to vote in the area and not in the precinct of his residence. (39th Legis., G.L., Ch. 25, Sec. 130, sen. 14, 15, 16, as amended.)

§ 51.527. Issuance of Bonds and Levy of Tax for Defined Area or Designated Property

(a) After the order is recorded, the district may issue its bonds to provide the specific plant, works, and facilities included in the plans adopted for the area or to serve the property and shall provide the plant, works, and facilities.

(b) In the appropriate case, the board shall levy, assess, and collect taxes on the property located in the defined area or on the designated property in conformity with the adopted tax plan. (39th Legis., G.L., Ch. 25, Sec. 130, sen. 20 (part), as amended.)

§ 51.528. Contract to Provide Improvements, Facilities, and Services to Designated Property or Area

(a) Property or areas inside or outside the district may, by contract, be designated to obtain improvements, facilities, or service for the designated area or property.

(b) The designation shall be based on a written petition in conformity with the laws authorizing contracts by a petitioner or person owning, controlling, or governing the property or area to be designated.

(c) The board may make the designation in a contract to provide, administer, maintain, and operate the desired improvements, facilities, or service for the designated area or property, and the designated area or property shall be subject to being made the basis of the bonds and may be subject to a tax lien in amount to retire the obligations incurred by the district to provide the facilities, improvements, or service and to cover the expenses necessary to administer, maintain, and operate the improvements and facilities under the contract.

(d) The contract may not violate the law of this state or the United States and may not result in impairing a vested right or causing the district to fail to serve fully and permanently water demands in the district in the order of preference of uses.

(e) The contract may provide that one governing body may establish the contractual and statutory tax lien in behalf of the district and may levy, assess and collect the tax for and on behalf of the district.

(f) The district may not issue bonds pledging the full faith and credit of the district under this section or under Section 51.517 of this code without submitting the proposition to the electors of the whole district under the provisions of this subchapter or under the provisions authorizing the issuance of construction bonds. (39th Legis., G.L., Ch. 25, Sec. 130, sen. 20 (part), 21, 22, 23, 24, 25 (part), as amended.)

§ 51.529. Authority of District

(a) If a majority of the electors in the whole district approve the proposal, the district may issue its bonds to provide the plant, improvements, and facilities peculiar to the defined area or designated property or peculiar to a contract for service and may pledge the full faith and credit of the district to pay for the bonds.

(b) The district shall have a lien on the property in the defined area or on the designated property and may levy, assess, and collect or have levied, assessed, and collected taxes in the area or on the property to protect the district from or to compensate any liability incurred on behalf of the defined area or designated property. (39th Legis., G.L., Ch. 25, Sec. 130, sen. 25 (part), as amended.)

§ 51.530. Administrative Authority of Board

The board shall administer all business incident to the creation and operation of a defined area or service to designated property unless otherwise provided by contract. (39th Legis., G.L., Ch. 25, Sec. 130, sen. 26, as amended.)

§ 51.531. Master District; Taxing Authority

A master district may levy and collect taxes, equitably distributed, which shall be in addition to other taxes which may be levied by the several districts constituting the master district. (39th Legis., G.L., Ch. 25, Sec. 3, sen. 3 (part), as amended.)

§ 51.532. Taxes in Districts Consisting of a City, Town or Municipal Corporation

If a city, town, or municipal corporation is constituted a district operating under this chapter, taxes levied in the district may be assessed and

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collected in the manner provided in Sections 51.533–51.538 of this code. (39th Legis., G.L., Ch. 25, Sec. 135, sen. 4 (part).)

§ 51.533. Order Fixing Rate of Taxation

(a) The board shall issue an order fixing the rate of taxation and levying a tax. The order shall be signed by the president and secretary of the district, and the district seal shall be attached.

(b) The board shall enter the order in their minutes and file a copy of the order with the secretary of the city, town, or municipal corporation.

(c) The secretary of the city, town, or municipal corporation shall record the order in a book kept in his office for that purpose and shall make and deliver a copy of the order to the assessor and collector of the city, town, or municipal corporation. (39th Legis., G.L., Ch. 25, Sec. 135, sen. 4 (part).)

§ 51.534. Laws Governing the Assessment and Collection of Taxes

(a) A tax levy ordered under Section 51.532 of this code shall be entered on the tax rolls and shall be assessed and collected in the same manner as other municipal taxes.

(b) The collection of the tax shall be governed by the provisions of law governing the collection of taxes in the city, town, or municipal corporation.

(c) Officers of the city, town, or municipal corporation have the same duties in the collection of taxes as provided for the collection and accounting for municipal taxes. (39th Legis., G.L., Ch. 25, Sec. 135, sen. 5.)

§ 51.535. Provisions of Chapter Inapplicable to District

If taxes are levied, assessed, and collected under Sections 51.533–51.538 of this code, the provisions of this chapter relating to assessment and collection of taxes do not apply to the district and it is not necessary for the district to appoint an assessor and collector. (39th Legis., G.L., Ch. 25, Sec. 135, sen. 8.)

§ 51.536. Compensation of City Assessor and Collector

The board shall pay to the city assessor and collector and other city officers reasonable compensation for the services performed by them for the district. The amount of compensation shall be fixed in advance of the performance of the duties. (39th Legis., G.L., Ch. 25, Sec. 135, sen. 7.)

§ 51.537. Assessor and Collector's Report

The assessor and collector shall make a report of collected taxes to the district depository on the last day of each month and shall deposit the collected taxes in the depository. A copy of the report shall be filed in the office of the board. (39th Legis., G.L., Ch. 25, Sec. 135, sen. 6.)

§ 51.538. Election Required

Taxes levied, bonds issued, and indebtedness incurred by a district operating under Sections 51.533–51.538 of this code are subject to the provisions of the constitution and this chapter which require an election to authorize tax levies, bonds, and indebtedness. (39th Legis., G.L., Ch. 25, Sec. 135, sen. 9.)

[Sections 51.539–51.560 reserved for expansion]

SUBCHAPTER M. TAXATION ON THE AD VALOREM BASIS**Section 51.561. Assessment of District Property**

The assessor and collector shall assess all taxable property in the district. (39th Legis., G.L., Ch. 25, Sec. 55, sen. 1.)

§ 51.562. Law Governing Property Subject to Taxation

The property subject to taxation in the district shall be determined by and governed by the law relating to taxation for state and county purposes and these laws shall apply unless otherwise provided. (39th Legis., G.L., Ch. 25, Sec. 55, sen. 2.)

§ 51.563. Rendition of Property

(a) The assessor and collector shall compile a record of all taxpayers and those subject to tax in the district and all taxable property and the name and post-office address of the owners.

(b) On or before the first day of April of each year, the assessor and collector shall furnish to each taxpayer and to each owner of taxable property in the district a blank form for the rendition of property for taxation. The form may be delivered or mailed to the owner.

(c) Failure to receive the form furnished by the assessor and collector shall not excuse anyone from the duty of making and filing a statement and rendition. Any property owner failing to receive the form shall call at the office of the district for it.

(d) Each owner of taxable property in the district shall file in the office of the assessor and collector a full, accurate, and complete statement under oath of all property owned by him in the district which is subject to taxation.

(e) The statement shall include the true value of all property listed and owned by the party rendering it. In rendering land improvements and all other property, the statement shall show both the market value and the real value.

(f) The statement shall be filed on or before March 31 of each year. (39th Legis., G.L., Ch. 25, Sec. 56; and Sec. 58, sen. 5.)

§ 51.564. Failure or Refusal to File Rendition

A person who fails or refuses to file, under oath, a true, full, and complete statement and rendition of all property owned by him which is subject to district taxation shall be precluded from making an objection, protest, or contest against the assessment made against him by the district. (39th Legis., G.L., Ch. 25, Sec. 57, sen. 1.)

§ 51.565. Property Owner's Oath

(a) The statement and rendition shall have attached to it substantially the following oath:

"I _____, on my oath, state that the foregoing statement and rendition is a true, full, and complete statement of all property owned by me, for whom this rendition is made or by whom this rendition is made, subject to taxation in the district. I have correctly stated the description, location, and value thereof and of each item thereof."

(b) The statement and oath shall be signed and made before an officer authorized by law to take oaths and acknowledgments.

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(c) The officer taking the oath shall place on the oath his certificate substantially as follows: "Subscribed and sworn to by _____ before me this the _____ day of _____." The officer also shall attach his official seal and signature. (39th Legis., G.L., Ch. 25, Sec. 57, sen. 2, 3, 4.)

§ 51.566. Agent May File Rendition Statement

The statement and rendition may be filed by any authorized agent of the owner of any property, but the agent shall state in the statement and rendition that he is filing as an agent. (39th Legis., G.L., Ch. 25, Sec. 57, sen. 5.)

§ 51.567. Verification of Rendition; Rendition of Property not Already Rendered

(a) The assessor and collector shall check, investigate, and verify each rendition of property and shall note on the rendition in writing his report. He shall include in the report any property omitted from the rendition with his estimate of the value of all the property not rendered at its full value or if the property is rendered at more than its full value.

(b) The assessor and collector shall make and file a rendition of all property in the district which is not rendered for taxation and shall file the rendition before June 1 of each year or as soon after that time as possible.

(c) In making the rendition of unrendered property, the assessor and collector shall include all property which is not rendered by the owner or his agent, and if the owner is unknown, the property shall be listed as being owned by "owner unknown."

(d) Property whose owner is unknown shall be taxed and taxes collected even though the owner is unknown and may be assessed against a person who is not the owner. (39th Legis., G.L., Ch. 25, Sec. 58, sen. 1, 2, 3, 4, 6.)

§ 51.568. Rendition of Property at a Later Date

On creation of the district, if it becomes necessary to have property rendered for taxation at a later date than provided for regular assessment, the board shall fix the time for the rendition to be made and the other necessary functions connected with it. After the first year, the assessments shall be made as provided in this subchapter. (39th Legis., G.L., Ch. 25, Sec. 60.)

§ 51.569. Authority to Administer Oaths

The assessor and collector may administer oaths to fully carry out his duties and the assessment of property for taxation. (39th Legis., G.L., Ch. 25, Sec. 59, sen. 1.)

§ 51.570. Laws and Penal Statutes Applicable to Rendition of Property

The laws and penal statutes of this state providing for rendition of property for state and county purposes and providing penalties for making false oaths and for failing to render property shall apply to rendition of property by a district except as otherwise provided. (39th Legis., G.L., Ch. 25, Sec. 59, sen. 2.)

§ 51.571. Appointment of Board of Equalization

(a) The board, at their first meeting or as soon after that time as practicable and each following year, shall appoint three commissioners to the board of equalization.

(b) Each person appointed to the board of equalization shall be a qualified property taxpaying elector of the district. (39th Legis., G.L., Ch. 25, Sec. 61 (part).)

§ 51.572. First Meeting of Board of Equalization

(a) At the same meeting at which the first board of equalization is appointed, the board shall fix a time for the meeting.

(b) The board of equalization shall convene at the time designated by the board to receive all assessment lists or books of the assessor and collector for examination, correction, equalization, appraisal, and approval. (39th Legis., G.L., Ch. 25, Sec. 61 (part).)

§ 51.573. Oath of Board of Equalization

(a) Before the board of equalization begins to perform its duties, each commissioner shall take and subscribe the following oath:

"I do solemnly swear (or affirm) that I will, to the best of my ability, make a full and complete examination, correction, equalization, and appraisal of all property contained in the district as shown by the assessment lists or books of the assessor and collector for the district and add all property not included of which I have knowledge."

(b) The oath shall be recorded in the minutes and shall be kept by the secretary of the board. (39th Legis., G.L., Ch. 25, Sec. 62.)

§ 51.574. Compensation of Board of Equalization

Members of the board of equalization shall receive the compensation fixed by the board. (39th Legis., G.L., Ch. 25, Sec. 66, sen. 8.)

§ 51.575. Secretary of Board of Equalization

The secretary of the board shall act as secretary of the board of equalization at all meetings and shall keep a permanent record of all the proceedings of the board of equalization. (39th Legis., G.L., Ch. 25, Sec. 61 (part).)

§ 51.576. Annual Meeting Date of Board of Equalization

The board of equalization shall convene on the first Monday in June of each year and shall complete its work by September 1 or as soon after that time as possible. (39th Legis., G.L., Ch. 25, Sec. 63.)

§ 51.577. Powers and Duties of Board of Equalization

(a) At the time the board of equalization convenes, the assessor and collector shall bring to the meeting all assessment lists and books for examination so that the board of equalization may see whether or not each person has rendered his property at its full value.

(b) The board of equalization may send for persons and papers, administer oaths to persons who testify, and ascertain the value of all property subject to taxation.

(c) The board of equalization may raise or lower the valuation of any of the property, may correct any and all errors of assessments and renditions, and may add any unrendered property to the tax rolls.

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(d) The board of equalization shall equalize as nearly as possible the value of all property rendered for taxation and fix the value of it for taxation. (39th Legis., G.L., Ch. 25, Sec. 64.)

§ 51.578. Complaints Filed with Board of Equalization

Any person may file with the board of equalization a complaint relating to the rendition and assessment of his own property or to any other property and the board of equalization shall consider all complaints. (39th Legis., G.L., Ch. 25, Sec. 65, sen. 1.)

§ 51.579. Lists of Persons and Property not on Tax Rolls Submitted to Board of Equalization

(a) Anyone may file with the board of equalization lists of property which is omitted from the tax rolls, and the board of equalization shall add to the tax rolls any property which has been omitted from them.

(b) The assessor and collector shall file with the board of equalization a list of all persons who fail or refuse to render their property. (39th Legis., G.L., Ch. 25, Sec. 65, sen. 2, 3.)

§ 51.580. Hearing

After the board of equalization has passed on the renditions, it shall fix a date to hear protests from persons whose renditions have been raised. (39th Legis., G.L., Ch. 25, Sec. 66, sen. 1.)

§ 51.581. Notice of Hearing

At least 10 days before the hearing, the secretary shall mail written notice of the time and place of the hearing to all persons whose assessments have been raised. Failure to give the notice does not relieve the owner of the property of his duty to take notice of the hearing and to attend. (39th Legis., G.L., Ch. 25, Sec. 66, sen. 2, 3, 4.)

§ 51.582. Hearing Procedure

At the hearing, the board of equalization shall hear and consider all complaints and protests, reconsider the valuation of all property whose valuation is raised by them, and finally fix the valuation on all property. (39th Legis., G.L., Ch. 25, Sec. 66, sen. 5.)

§ 51.583. Final Approval of Tax Rolls

(a) After the assessor and collector makes his final tax rolls, the board of equalization shall meet and consider the tax rolls and make necessary corrections and endorse their approval on the rolls.

(b) The action of the board of equalization in approving the tax rolls is final and is not subject to revision by the board of equalization or any other tribunal. (39th Legis., G.L., Ch. 25, Sec. 66, sen. 6, 7.)

§ 51.584. Preservation of Official Documents

(a) The assessor and collector shall prepare the tax rolls in duplicate and one copy shall be retained in his office, and one copy shall be filed in the district office.

(b) The minutes of the board of equalization, renditions, protests, and other papers filed in connection with the rendition of property and preparation of the tax rolls shall be preserved as official records in the district office. (39th Legis., G.L., Ch. 25, Sec. 67.)

§ 51.585. Permanent Finance Ledger

(a) The board shall provide a permanent finance ledger in which the assessor and collector shall be charged with the total assessment of property shown on the tax rolls.

(b) Credit shall be entered in the permanent finance ledger of all collections paid to the depository.

(c) The permanent finance ledger and the books and accounts of the assessor and collector shall be audited by the board semiannually on January 1 and July 1 of each year and at any other times ordered by the board. (39th Legis., G.L., Ch. 25, Sec. 68.)

§ 51.586. Date Taxes Are Due

All taxes are due and payable on October 1 of each year and shall be paid on or before January 31 of the following year. (39th Legis., G.L., Ch. 25, Sec. 69.)

§ 51.587. Delinquent Taxes

(a) All taxes which are not paid by January 31 become delinquent on February 1 of each year and shall be and remain a lien on the property for which they were assessed although the owner is unknown, the property is listed under the name of a person who is not the owner, or the ownership has changed.

(b) The property may be sold under a judgment of a court for all taxes, interest, penalty, and costs assessed against the property at any time after taxes become delinquent.

(c) The district may file suit to collect the delinquent taxes, and if the owner of the property is unknown, the suit may be filed against the unknown owner and the property sold under judgment of the court.

(d) Taxes are not barred by any statute of limitation, and no law providing for a period of limitation as to debts or actions shall apply to these taxes. (39th Legis., G.L., Ch. 25, Sec. 70.)

§ 51.588. Interest and Penalty on Delinquent Taxes

All delinquent taxes shall have a penalty of 10 percent of their amount added to them, which shall accrue at the time the taxes become delinquent. The delinquent taxes also shall bear interest at the rate of six percent a year from the date on which they become delinquent. (39th Legis., G.L., Ch. 25, Sec. 71.)

§ 51.589. Preparing and Filing Delinquent Tax Roll

The assessor and collector shall prepare and file with the board a delinquent tax roll on or before April 1 of each year. The delinquent tax roll shall show all charges on the tax rolls which have not been paid. (39th Legis., G.L., Ch. 25, Sec. 72, sen. 1.)

§ 51.590. Notice of Delinquent Tax List

(a) The board shall publish the delinquent tax list once a week for two weeks in a newspaper published in the county in which the district or part of the district is located. If no newspaper is published in the district, the notice shall be published in a newspaper outside the district.

(b) The delinquent tax list shall include:

(1) the name of the owner;

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- (2) a description of the property; and
- (3) the total amount of taxes due.

(c) The newspaper which publishes the notice shall be paid a reasonable fee fixed by agreement; however, the fee shall not be more than 20 cents for each rendition or tract of land using not more than three lines single column.

(d) The publisher of the newspaper which publishes the notice shall file in the district office a copy of each issue of the newspaper containing the notice with an affidavit of publication attached.

(e) The notice provided in this section is intended to be for the information of all taxpayers and shall not be held to be requisite to filing a suit for the collection of taxes. The suit may be filed without publishing notice. (39th Legis., G.L., Ch. 25, Sec. 72, sen. 2, 3, 4, 5, 6, 7, 8.)

§ 51.591. Attorney to File Suits to Collect Delinquent Taxes

(a) The board shall on or before April 1 of each year employ an attorney to file suits to collect all delinquent taxes.

(b) The attorney is entitled to receive a fee of 10 percent of the amount of all delinquent taxes collected or paid after suits are filed. The fees shall be charged as court costs. (39th Legis., G.L., Ch. 25, Sec. 73, sen. 1, 2.)

§ 51.592. Delinquent Tax Suit

(a) A delinquent tax suit shall be filed as any other civil suit.

(b) If the owner of the property against which delinquent taxes are owed is unknown, the suit may be filed against the unknown owner and citation published in the manner provided for state and county taxes.

(c) All tax suits shall be for the collection of the amount due and foreclosure of the lien on the property against which the delinquent taxes are assessed.

(d) Costs of the suit shall be taxed in the order of sale. (39th Legis., G.L., Ch. 25, Sec. 73, sen. 3, 4, 5 (part), 6.)

§ 51.593. Sale of Property to Pay Delinquent Taxes

(a) Property on which delinquent taxes are owed shall be sold under order of sale.

(b) If more property is covered by the lien fixed by the judgment than is necessary to secure the amount due, the property may be divided and sold in parcels as necessary to collect the amount due.

(c) The officer executing the order of sale shall make deeds to the purchaser which shall be held to vest a good and perfect title in the purchaser, subject to contest only for fraud. (39th Legis., G.L., Ch. 25, Sec. 73, sen. 5 (part), 7, 8.)

§ 51.594. Redemption of Property on Which Delinquent Taxes are Owed

A person may redeem property on which delinquent taxes are owed at any time before the date of sale under a judgment by paying the taxes and all penalties, interest, attorney's fees, and court costs which have accrued. (39th Legis., G.L., Ch. 25, Sec. 74.)

§ 51.595. Authorizing Taxes to be Assessed and Collected by Assessor and Collector of County or City

(a) A majority of the board may adopt a resolution to have the district's taxes assessed and collected by the county assessor and collector

or by the city assessor and collector of an incorporated city or town inside the boundaries of the district.

(b) The taxes shall be assessed and collected by the county or city assessor and collector in the manner provided by the board and turned over to the treasurer of the district. (52nd Legis., Ch. 218, Sec. 1.)

§ 51.596. Compensation of County or City Assessor and Collector

If the county or city assessor and collector is required to assess and collect the taxes of the district, he is entitled to receive one percent of the total taxes shown on the completed roll for assessing the taxes and one percent for collecting the taxes. The compensation for collection of delinquent taxes shall be five percent of the amount collected. (52nd Legis., Ch. 218, Sec. 2.)

§ 51.597. Alternate Method for Assessment, Equalization, and Collection of Taxes

Instead of having taxes assessed, equalized, and collected as provided in Sections 51.561–51.596 of this code, the board may enter into a contract for this service with the commissioners court of each county in which taxable property of the district is located. (39th Legis., G.L., Ch. 25, Sec. 33, sen. 1 (part), as amended.)

§ 51.598. Consideration and Costs under Contract

(a) The consideration for services rendered under a contract entered into under Section 51.597 of this code shall be computed as fees of office of the county officers rendering the services under the contract.

(b) The service charge to be paid by the district under the contract may not be more than the reasonable cost which would be added to the county's cost for assessing and collecting taxes if there were no contract.

(c) If the service may be accomplished by an extension of an ad valorem tax levy by the district on the rolls to be used for state and county taxes, the cost shall not be more than \$1,800 a year for the assessment and equalization of taxes and shall not be more than \$1,500 a year for the collection of and accounting for the taxes, together with other acts which are lawful duties incident to collecting delinquent taxes. (39th Legis., G.L., Ch. 25, Sec. 33, sen. 1 (part), as amended.)

§ 51.599. County Assessor and Collector's Bond

(a) The county assessor and collector shall be considered the assessor and collector of the district, and he may be required by the district to execute a surety company bond payable to the district. The premium on the bond shall be paid by the district.

(b) In the absence of a separate bond, the official bond of the county assessor and collector shall inure ratably to the benefit of the district. (39th Legis., G.L., Ch. 25, Sec. 33, sen. 1 (part), as amended.)

§ 51.600. Tax Assessment and Collection Procedure under Contract

(a) On entering into a contract under Section 51.597 of this code, the county assessor and collector shall perform for the contracting district the same duties which he is required by law to perform in assessing and collecting state and county taxes.

(b) Before the district requires service under the contract, it shall levy an ad valorem tax or fix the specific assessment of benefits or tax per acre for each year for which service is to be rendered under the contract.

(c) Within the time which will not delay the preparation of the county's tax rolls, the district shall deliver to the county tax assessor and collector a certificate showing the rate or amount of the district's tax levy or specific assessment for the current taxing year.

(d) The county assessor and collector shall pay to the district or the district depository all money collected by him for the district during any calendar month and shall furnish to the district on or before the fifteenth day of the next succeeding month an itemized statement of the collections made in the previous month, unless the contract provides for more frequent accounting.

(e) The district shall keep a finance ledger in which the full amount of the completed tax rolls shall be charged to the county assessor and collector and the amount of taxes collected and paid over to the district shall be entered. (39th Legis., G.L., Ch. 25, Sec. 33, sen. 2, 3, 5, as amended.)

§ 51.601. Audit

(a) The district under the contract may elect to require the county auditor to audit annually the collections and accounts of the county assessor and collector and furnish the district with a report of his finding.

(b) The district shall pay to the county the actual cost of the audit, not to exceed \$500. (39th Legis., G.L., Ch. 25, Sec. 33, sen. 4, as amended.)

[Sections 51.602–51.630 reserved for expansion]

SUBCHAPTER N. TAXATION ON THE BENEFIT BASIS

Section 51.631. Method of Taxation for District under Contract with United States

A district which is operated under contract with the United States may adopt the plan to levy and collect taxes on the benefit basis instead of the ad valorem basis and determine taxes under the provisions of Sections 51.632–51.634 of this code. (39th Legis., G.L., Ch. 25, Sec. 131, sen. 1 (part).)

§ 51.632. Assessment Record

When necessary, the board shall apportion and assess the benefits conferred on property in the district and shall make a record showing the amount and value of benefits to accrue on property in the district and the amount of taxes to be levied and collected on the property. No taxes assessed or adjudged against the property may be more than the benefit which accrues to the property from the organization, operation, and maintenance of the district and its improvements. (39th Legis., G.L., Ch. 25, Sec. 131, sen. 1 (part).)

§ 51.633. Notice of Taxes

After the board makes the record, it shall mail to each property owner whose name appears in the record notice of the amount of taxes levied on his property and the date and place at which the property owner may appear and contest the correctness and equitableness of the tax. (39th Legis., G.L., Ch. 25, Sec. 131, sen. 2.)

§ 51.634. Decision after Hearing

After the hearing, the board shall determine whether or not the tax is equitable and shall sustain, reduce, or increase the tax to an amount which in the board's judgment is equitable. The decision of the board is final. (39th Legis., G.L., Ch. 25, Sec. 131, sen. 3.)

§ 51.635. Method of Taxation for District not under Contract with the United States

If a district which is not operating under contract with the United States adopts the benefit basis plan for taxation, the levy, assessment, equalization of property values, and collection of taxes shall be made in the manner provided in Sections 51.636–51.648 of this code. (39th Legis., G.L., Ch. 25, Sec. 132, sen. 1.)

§ 51.636. Commissioners of Appraisement

As soon as practicable after the approval of the engineer's report and the adoption of the plan for improvements to be constructed, the board shall appoint three disinterested commissioners of appraisement. The commissioners shall be freeholders but not owners of land within the district which they represent. (39th Legis., G.L., Ch. 25, Sec. 132, sen. 2.)

§ 51.637. Compensation of Commissioners

On approval by the board, each commissioner is entitled to receive \$10 a day for each day he actually serves, plus all necessary expenses. (39th Legis., G.L., Ch. 25, Sec. 132, sen. 7 (part).)

§ 51.638. Notice of Appointment and Meeting

Immediately after the commissioners of appraisement are appointed, the secretary of the board shall give written notice to each appointee of his appointment and of the time and place of the first meeting of the commissioners. (39th Legis., G.L., Ch. 25, Sec. 132, sen. 3.)

§ 51.639. First Meeting of Commissioners

(a) The commissioners shall meet at the time specified in the notice from the secretary or as soon after that time as possible.

(b) At the meeting the commissioners shall take and subscribe an oath to discharge faithfully and impartially their duties as commissioners and make a true report of the work which they perform. They shall then organize by electing one commissioner as chairman and one commissioner as vice chairman.

(c) The secretary of the board or, in his absence, a person appointed by the board shall serve as secretary to the commissioners of appraisement and shall furnish to the commissioners any information and assistance which is necessary for the commissioners to perform their duties. (39th Legis., G.L., Ch. 25, Sec. 132, sen. 4.)

§ 51.640. Assistance for Commissioners

Within 30 days after the commissioners qualify and organize, they shall begin to perform their duties, and in the exercise of their duties they may obtain legal advice and information relative to their duties from the district's attorney and, if necessary, may require the presence of the district engineer or one of his assistants at any time and for as long

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as necessary to properly perform their duties. (39th Legis., G.L., Ch. 25, Sec. 132, sen. 5.)

§ 51.641. Viewing Land and Other Property and Improvements in District

The commissioners shall view the land in the district which will be affected by the district's reclamation plans and the public roads, railroads, rights-of-way, and other property and improvements located in the district and shall assess the amount of the benefits and damages that will accrue to the land, roads, railroads, rights-of-way or other property or improvements in the district from the construction of the improvements. (39th Legis., G.L., Ch. 25, Sec. 132, sen. 6.)

§ 51.642. Commissioners Report

(a) The commissioners shall prepare a report and file it with the secretary of the board. The report shall be signed by at least a majority of the commissioners.

(b) The report shall include:

- (1) the name of the owner of each tract of land which is subject to assessment;
- (2) a description of the property;
- (3) the amount of the benefits or damages assessed on each tract of land;
- (4) the time and place at which a hearing will be held on the report to hear objections; and
- (5) the number of days each commissioner served and the actual expenses incurred during his service as commissioner.

(c) The day set in the report for the hearing may not be later than 20 days after the report is filed. (39th Legis., G.L., Ch. 25, Sec. 132, sen. 7 (part), 8.)

§ 51.643. Notice of Hearing

(a) After the commissioners' report is filed, the secretary of the board shall publish notice of the hearing on the report at least once a week for two consecutive weeks in a newspaper published in each county in which part of the district is located. The secretary shall mail written notice of the hearing to each person whose property will be affected if his address is known.

(b) The notice shall state:

- (1) the time and place of the hearing;
- (2) that the commissioners' report has been filed;
- (3) that interested persons may examine the report and make objections to it; and
- (4) that the commissioners will meet at the time and place indicated to hear and act on objections to the report.

(c) On the day of the hearing, the secretary shall file in his office the original notice and his affidavit stating the manner of publication, the names of persons to whom notice was mailed, and the names of persons to whom notice was not mailed because the secretary by reasonable diligence could not ascertain their addresses. Copies of the notice and affidavit also shall be filed with the commissioners of appraisal and the clerk of the commissioners court. (39th Legis., G.L., Ch. 25, Sec. 132, sen. 14.)

§ 51.644. Hearing

(a) At or before the hearing on the commissioners' report, an owner of land that is affected by the report or the reclamation plans may file exceptions to all or part of the report.

(b) At the hearing, the commissioners shall hear and make determinations on the objections submitted and may make necessary changes and modifications in the report for objections which are sustained. (39th Legis., G.L., Ch. 25, Sec. 132, sen. 9.)

§ 51.645. Witnesses at the Hearing

At the hearing, interested parties may appear in person or by attorney and are entitled, on demand, to have the chairman of the commissioners of appraisal issue process for witnesses. The commissioners shall have the same power as a court of record to enforce the attendance of witnesses. (39th Legis., G.L., Ch. 25, Sec. 132, sen. 16.)

§ 51.646. Costs of Hearing

The commissioners may adjudge and apportion the costs of the hearing in any manner they consider equitable. (39th Legis., G.L., Ch. 25, Sec. 132, sen. 11.)

§ 51.647. Commissioners' Decree

(a) After the commissioners have made a final decision, they shall issue a decree confirming their report insofar as it remains unchanged and shall approve and confirm changes in the report.

(b) The final decree and judgment of the commissioners shall be entered in the minutes of the board, and certified copies shall be filed as a permanent record with the county clerk of each county in which part of the district is located and shall be notice to all persons of the contents and purpose of the decree.

(c) The findings of the commissioners which relate to benefits and damages to land and other property in the district are final and conclusive. (39th Legis., G.L., Ch. 25, Sec. 132, sen. 10, 12, 13.)

§ 51.648. Effect of Final Judgment and Decree

The final judgment and decree of the commissioners shall form the basis for all taxation in the district. Taxes shall be apportioned and levied on each tract of land and other real property in the district in proportion to the net benefits to the land or other property stated in the final judgment and decree. (39th Legis., G.L., Ch. 25, Sec. 132, sen. 15.)

§ 51.649. Fixing Tax as Equal Sum on Each Acre

At the election at which the plan of taxation is determined or at any other time before the bonds are issued, the voters of any district operating under the provisions of Article XVI, Section 59, of the Texas Constitution, may vote on the proposition of whether or not benefits for tax purposes shall be fixed as an equal sum on each acre of land that is irrigated or to be irrigated by gravity flow from the canal system of the district. The benefit per acre shall be voted on as it is applied to land in the district that can be irrigated by gravity flow from the irrigation system and also the benefit to land in the district that cannot be irrigated by gravity flow. (39th Legis., G.L., Ch. 25, Sec. 133, sen. 1, 2.)

§ 51.650. Election

(a) If the board desires to submit the question of whether or not to adopt the method of assessing benefits provided in Section 51.649 of this code, it shall order an election to be held in the district and shall submit the proposition in the manner provided for other district elections.

(b) The ballots for the election shall be printed to provide for voting for or against the proposition: "Uniform assessment of benefits of \$_____ per acre on all irrigable land in the district, and the assessment of \$_____ per acre on all nonirrigable land in the district."

(c) The board shall determine the amounts to fill the spaces in the proposition. The amount of charge per acre may be found by dividing the number of acres of land into the amount of debt to be incurred by the district in providing for irrigation.

(d) If a majority of the persons voting in the election vote in favor of the proposition, it shall be adopted. (39th Legis., G.L., Ch. 25, Sec. 133, sen. 3, 4, 5, 6, 7, 9.)

§ 51.651. Excluding Nonirrigable Land from District

If the owner of land which is classed nonirrigable under the uniform acreage valuation objects to the amount of charges fixed against him by the order calling the election or by the result of the election, he may have his nonirrigable land excluded from the district by filing an application for exclusion as provided by law within 10 days after the election is held. (39th Legis., G.L., Ch. 25, Sec. 133, sen. 8.)

§ 51.652. Setting Annual Value of Land Unnecessary

If the district adopts the uniform acreage valuation for taxation, the valuation shall be applied to all land, and it is not necessary for the assessor and collector or the board of equalization to annually fix the value of the land or equalize the values. It is also unnecessary for the board to appoint a commission to ascertain or fix the value of the improvement to particular land. (39th Legis., G.L., Ch. 25, Sec. 133, sen. 10.)

§ 51.653. Preparing Tax Rolls

(a) The board of equalization shall examine the renditions and tax rolls to determine if all property subject to taxation appears on the tax rolls under the proper classification. The board of equalization shall add to the tax roll any property which was left off or was not rendered for taxation and shall examine, correct, and certify the tax roll.

(b) Any property owner may protest to the board of equalization that his property has not been properly classified. The board of equalization shall consider the protest and enter its findings in the minutes in the manner provided by law. (39th Legis., G.L., Ch. 25, Sec. 133, sen. 11, 12.)

§ 51.654. Rendition of Property

Land which is taxed on the uniform acreage valuation shall be rendered for taxation as either subject to irrigation or not subject to irrigation. When land is rendered, the value need not be stated, and it is unnecessary for the person rendering the property to include the value of the land in an affidavit or for the assessor and collector to set a value on the land. (39th Legis., G.L., Ch. 25, Sec. 133, sen. 13 (part).)

§ 51.655. Law Governing Administration of Benefit Tax Plan

The rate of taxation, the collection of taxes, the assessment of property, and the rendition of property for taxation shall be governed by the law relating to ad valorem taxes. (39th Legis., G.L., Ch. 25, Sec. 133, sen. 13 (part).)

§ 51.656. Irrigating Nonirrigable Land

If land which is classed as nonirrigable is later irrigated by the district, before the owner of the land receives the water, he shall pay to the district an amount equal to the entire amount that would have been charged to the owner if the land had been originally classed as irrigable. (39th Legis., G.L., Ch. 25, Sec. 133, sen. 14.)

§ 51.657. Taxation in District Constructing Levees or Drainage Systems

(a) A district created to construct levees or works and plants to protect from overflow or created to construct drainage systems may adopt the plan of assessing benefits at an equal sum on each acre of land in the district in the manner provided in Sections 51.650–51.656 of this code.

(b) The proposition included in the election order shall be printed to provide for voting for or against: "Uniform assessment of benefits for _____ purposes." (39th Legis., G.L., Ch. 25, Sec. 134.)

[Sections 51.658–51.690 reserved for expansion]

**SUBCHAPTER O. ADDING AND EXCLUDING TERRITORY
AND CONSOLIDATING DISTRICTS****Section 51.691. Excluding Land from District**

After a district is organized, preliminary surveys are completed, and plans adopted by the district for the construction of a plant and improvements, and before the board calls an election for the authorization of construction bonds, the board must exclude land or other property from the district under the provisions of Sections 51.692–51.701 of this code, if the exclusions are practicable, just, or desirable. (39th Legis., G.L., Ch. 25, Sec. 76, sen. 1 (part), as amended.)

§ 51.692. Hearing to Announce Proposed Exclusions and to Receive Petitions

Before the election to authorize construction bonds, the board shall give notice of a time and place of a hearing to announce its own conclusions relating to land or other property to be excluded and to receive petitions for exclusion of land or other property. (39th Legis., G.L., Ch. 25, Sec. 76, sen. 1 (part), as amended.)

§ 51.693. Notice of Hearing

(a) The board shall publish notice of the hearing once a week for two consecutive weeks in one or more newspapers with general circulation in the district. The first publication shall appear at least 15 days and not more than 40 days before the day of the hearing.

(b) The notice shall advise all interested property owners of their right to present petitions for exclusions and to offer evidence in support

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of the petitions and their right to contest any proposed exclusion based on either a petition or the board's own conclusions and to offer evidence in support of the contest. (39th Legis., G.L., Ch. 25, Sec. 76, sen. 2, 3, 4, 5, as amended.)

§ 51.694. Petition

(a) A petition for exclusion of land must accurately describe by metes and bounds the land to be excluded. A petition for exclusion of other property must describe the property to be excluded for identification.

(b) A petition for exclusion shall be filed with the district at least 10 days before the hearing and shall state clearly the particular grounds on which the exclusion is sought. Only the stated grounds shall be considered. (39th Legis., G.L., Ch. 25, Sec. 76, sen. 6, 7, 8, as amended.)

§ 51.695. Grounds for Exclusion

Exclusions from the district may be made on the grounds that:

(1) to retain certain land or other property within the district's taxing power would be arbitrary, would be unnecessary to conserve the public welfare, would impair or destroy the value of the property desired to be excluded, and would constitute the arbitrary imposition of a confiscatory burden;

(2) to retain any given land or other property in the district and to extend to it, either presently or in the future, the benefits, service, or protection of the district's facilities would create an undue and uneconomical burden on the remainder of the district; or

(3) the land desired to be excluded cannot be bettered as to conditions of living and health, or served with water, or protected from flood, or drained, or freed from interruption of traffic caused by excess of water on the roads, highways, or other means of transportation serving the land, or otherwise benefited by the district's proposed improvements. (39th Legis., G.L., Ch. 25, Sec. 76, sen. 9, 10, 11, as amended.)

§ 51.696. Hearing Procedure

The board may adjourn the hearing from one day to another and until all persons desiring to be heard are heard. The board immediately shall specifically describe all property which it proposes to exclude on its own motion and shall hear first any protests and evidence against exclusions proposed on the board's own motion. (39th Legis., G.L., Ch. 25, Sec. 76, sen. 12, 13, as amended.)

§ 51.697. Order Excluding Land

After considering all engineering data and other evidence presented to it, the board shall determine whether the facts disclose the affirmative of the propositions stated in Subdivision (1) or (2) or, if appropriate, in Subdivision (3) of Section 51.695 of this code. If the affirmative exists, the board shall enter an order excluding all land or other property falling within the conditions defined by the respective subdivisions and shall redefine the boundaries of the district in the order to embrace all land not excluded. (39th Legis., G.L., Ch. 25, Sec. 76, sen. 14, as amended.)

§ 51.698. Suit to Review, Etc.

Any person owning an interest in land affected by the order may file a petition within 20 days after the effective date of the order to review, set aside, modify, or suspend the order. (39th Legis., G.L., Ch. 25, Sec. 76, sen. 15, as amended.)

§ 51.699. Venue of Suit

The venue in any action shall be in any district court which has jurisdiction in the county in which the district is located. If the district includes land in more than one county, the venue shall be in the district court having jurisdiction in the county in which the major portion of the acreage of the land sought to be excluded from the district is located. (39th Legis., G.L., Ch. 25, Sec. 76, sen. 16, 17, as amended.)

§ 51.700. Trial Procedure

(a) A suit to review, modify, suspend, or set aside the order of the board shall be a trial de novo as that term is understood in an appeal from a justice of the peace court to a county court. The trial shall be strictly de novo with no presumption of validity or reasonableness or presumption of any character in favor of the order.

(b) The decision shall be made on a preponderance of the evidence and facts found in the trial as in other civil cases, independently of any action taken by the board.

(c) The procedure for the trial and the determination of the orders and judgments to be entered shall be governed solely by the rules of law, evidence, and procedure of the state courts according to the constitution, statutes, and rules of procedure for the trial of civil actions.

(d) The so-called "substantial evidence" rule enunciated by the courts for orders of other administrative or quasi-judicial agencies shall not apply in the trial. (39th Legis., G.L., Ch. 25, Sec. 76, sen. 18, 19, 20, as amended.)

§ 51.701. Appeal

A person may appeal from the judgment or order of a district court in a suit brought under the provisions of Sections 51.698-51.700 to the court of civil appeals and supreme court as in other civil cases in which the district court has original jurisdiction. The appeal is subject to the statutes and rules of practice and procedure in civil cases. (39th Legis., G.L., Ch. 25, Sec. 76, sen. 21, as amended.)

§ 51.702. Exclusion of Nonagricultural and Nonirrigable Land from the District

After the district is organized, acquires facilities with which to function as an irrigation district, and votes, issues, and sells bonds for the purposes for which the district was organized, land within the district subject to taxation which is not agricultural land or cannot be irrigated in a practicable manner may be excluded from the district by complying with the provisions of Sections 51.703-51.713 of this code. (46th Legis., G.L., Ch. 3, p. 707, Sec. 1, sen. 1 (part), as amended.)

§ 51.703. Prerequisite to Application for Exclusion

The owner of land in the district which is not agricultural land or cannot be irrigated in a practicable manner may apply for its exclusion from

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the district if all taxes levied and assessed by the district on the land to be excluded have been fully paid, including all bond tax and flat water rate assessment. (46th Legis., G.L., Ch. 3, p. 707, Sec. 1, sen. 1 (part), as amended.)

§ 51.704. Substituting Land of Equal Acreage and Value

Land which can be irrigated in a practicable manner of at least equal acreage and equal value to the land being excluded must be added to the district simultaneously with the exclusion of the nonagricultural or non-irrigable land. (46th Legis., G.L., Ch. 3, p. 707, Sec. 1, sen. 1 (part), as amended.)

§ 51.705. Securing Application to Substitute Land

The board may require an owner of land in the district who has applied for the exclusion of his nonagricultural or nonirrigable land from the district to procure an application of the owner of land adjoining the boundaries or the canals of the district, and capable of being irrigated in a practicable manner from the facilities of the district, for inclusion in the district of his land in an amount and value at least equal to the land which is to be excluded under the application of the owner of nonagricultural or nonirrigable land. Each application shall set forth the facts concerning the land to be excluded from and the land to be added to the district, including evidence of their reasonable market value. (46th Legis., G.L., Ch. 3, p. 707, Sec. 1, sen. 1 (part), 2 (part), as amended.)

§ 51.706. Application of Owner of New Land to Be Substituted

The owner of the new land to be added shall submit an application setting forth that the owner of the new land assumes the payment of all taxes to be levied on his land by the district after the date the land is added to the district. The application also shall set forth an agreement by the owner of the new land that the land will be subject to future taxes for bond tax and flat rate and all other assessments levied and assessed by the district as though the land had been incorporated originally in the district. The application also shall contain an agreement by the owner of the new land that the land will be subject to the same liens and provisions as all other land in the district and subject to the statutes governing all other land in the district. (46th Legis., G.L., Ch. 3, p. 707, Sec. 1, sen. 1 (part), as amended.)

§ 51.707. Consent of Outstanding Bondholders

(a) The board shall communicate the contents of the applications to exclude nonagricultural or nonirrigable land and to include an equal amount of irrigable land to the holders of outstanding bonds voted, issued, sold, and delivered by the district and payable from taxes levied on property in the district.

(b) If the consent in writing of 95 percent or more of the bondholders to the plan is filed with the board, the board may hold a hearing on the applications. (46th Legis., G.L., Ch. 3, p. 707, Sec. 1, sen. 1 (part), 2 (part), as amended.)

§ 51.708. Notice of Hearing on Applications

The board shall give notice of the hearing on the applications by publishing the time, place, and nature of the hearing one time in a newspa-

per published in a county in which all or part of the district is located. The newspaper must have been published regularly for more than 12 months preceding the date of the publication of the notice and must have circulation in the district. The notice shall be published not less than 10 days nor more than 20 days before the date of the hearing. (46th Legis., G.L., Ch. 3, p. 707, Sec. 1, sen. 2 (part), as amended.)

§ 51.709. Hearing Procedure

The board shall hear all interested parties and all evidence in connection with the applications. (46th Legis., G.L., Ch. 3, p. 707, Sec. 1, sen. 3 (part), as amended.)

§ 51.710. Board's Resolution to Substitute Land

If the board finds that all the conditions provided for the exclusion of land and inclusion of other land in the district exist, it may adopt and enter in its minutes a resolution to exclude land which is nonagricultural or nonirrigable in a practicable manner and include land which may be irrigated from the facilities of the district in a practicable manner. (46th Legis., G.L., Ch. 3, p. 707, Sec. 1, sen. 3 (part), as amended.)

§ 51.711. Liability of Excluded and Included Land

The land excluded from the district is free from any lien or liability created on the excluded land by reason of its having been included in the district. Land added to the district is subject to all laws, liens, and provisions governing the district and the land in the district. (46th Legis., G.L., Ch. 3, p. 707, Sec. 1, sen. 3 (part), as amended.)

§ 51.712. Duty to Advise Water Rights Commission

The board shall furnish the Texas Water Rights Commission a detailed description of the land excluded and a detailed description of the land included within 30 days after the exclusion and inclusion of land under the provisions of Sections 51.702-51.711 of this code. (46th Legis., G.L., Ch. 3, p. 707, Sec. 1, sen. 4, as amended.)

§ 51.713. Right to Serve New Land Included in District

The district has the same right to furnish water service to the included land that it previously had to furnish service to the excluded land. The mere inclusion of a larger total acreage than that excluded does not give the district the right to irrigate a larger total acreage or to appropriate a larger quantity or volume of public water for irrigation than the district would have had the right to irrigate or to appropriate before the exclusion and inclusion of the land. (46th Legis., G.L., Ch. 3, p. 707, Sec. 1, sen. 5, as amended.)

§ 51.714. Adding Land by Petition of Landowner

The owner of land may file with the board a petition requesting that the land described by metes and bounds in the petition be included in the district. (39th Legis., G.L., Ch. 25, Sec. 75, sen. 1, 2 (part).)

§ 51.715. Petition Signed and Executed

The petition of the landowner to add his land to the district shall be signed and executed in the manner provided by law for the conveyance of real estate. (39th Legis., G.L., Ch. 25, Sec. 75, sen. 2 (part).)

§ 51.716. Hearing and Determination of Petition

The board shall hear and consider the petition and may add to the district the land described in the petition if it is considered to be to the advantage of the district and if the water supply, canals, and other improvements are sufficient to supply the added land without injuring land already in the district. (39th Legis., G.L., Ch. 25, Sec. 75, sen. 3.)

§ 51.717. Recording Petition

A petition which is granted adding land to the district shall be filed for record and shall be recorded in the office of the county clerk of the county in which the land is located. (39th Legis., G.L., Ch. 25, Sec. 75, sen. 4.)

§ 51.718. Adding Certain Territory by Petition

Landowners of a defined area of territory not included in a district may file a petition requesting inclusion with the secretary of the board signed by a majority of the landowners in the territory or by 50 landowners if the number of landowners is more than 50. (39th Legis., G.L., Ch. 25, Sec. 75—b, sen. 1, 2, 3, as added.)

§ 51.719. Hearing on Petition

The board by order shall set the time and place of the hearing on the petition to include the territory in the district. The hearing shall be held not less than 30 days from the date of the order. (39th Legis., G.L., Ch. 25, Sec. 75—b, sen. 4, as added.)

§ 51.720. Notice of Hearing

(a) The secretary of the board shall issue notice of the time and place of the hearing, and the notice shall describe the territory proposed to be annexed.

(b) The secretary shall post copies of the notice in three public places in the district and one copy in a public place in the territory proposed to be annexed. The notices shall be posted for at least 15 days before the day of the hearing.

(c) The notice shall be published one time in a newspaper with general circulation in the county. The notice shall be published at least 15 days before the day of the hearing. (39th Legis., G.L., Ch. 25, Sec. 75—b, sen. 5, 6, 7, as added.)

§ 51.721. Resolution to Add Territory

If the board finds on hearing the petition that the addition would be of benefit to the district and that the water supply, canals, and other improvements are sufficient to supply the added territory without injuring the land already in the district, it may add the territory to the district by resolution entered in its minutes. The board does not have to include all the territory described in the petition if it finds that a modification or change is necessary or desirable. (39th Legis., G.L., Ch. 25, Sec. 75—b, sen. 8, 10 (part), as added.)

§ 51.722. Elections to Ratify Annexation of Land

(a) Annexation of the territory is not final until ratified by a majority vote of the electors at a separate election held in the district and by a

majority vote of the electors at a separate election held in the territory proposed to be added.

(b) If the district has outstanding debts or taxes, the same election shall determine also whether or not the territory to be added will assume its proportion of the debts or taxes if the land is added to the district. (39th Legis., G.L., Ch. 25, Sec. 75—b, sen. 10 (part), 12, as added.)

§ 51.723. Notice and Procedure of Election

The notice of the election, the manner and the time of giving the notice, the manner of holding the election, and qualifications of the voters shall be governed by the provisions of Subchapter E of this chapter. (39th Legis., G.L., Ch. 25, Sec. 75—b, sen. 11, as added.)

§ 51.724. Liability of Added Territory

The added territory shall bear its pro rata part of all indebtedness or taxes that may be owed, contracted, or authorized by the district to which it is added. (39th Legis., G.L., Ch. 25, Sec. 75—b, sen. 9, as added.)

§ 51.725. Adding Territory Annexed to a City in the District

Territory annexed to a city included in a district organized under the provisions of this chapter and providing water or sewer services to the city or its inhabitants may be added to the district by complying with the provisions of Sections 51.726–51.729 of this code. (39th Legis., G.L., Ch. 25, Sec. 75d, sen. 1 (part), as added.)

§ 51.726. Hearing to Add Territory Annexed to a City

After final passage of an ordinance or resolution annexing territory to the city, the board may issue a notice of a hearing on the question of annexing any part of the territory to the district. (39th Legis., G.L., Ch. 25, Sec. 75d, sen. 1 (part), as added.)

§ 51.727. Notice of Hearing

(a) The notice of the hearing shall state the date and place of the hearing and a description of the area proposed to be annexed. In lieu of the description, the notice may make reference to the annexation ordinance of the city.

(b) The board shall publish the notice one time at least 10 days before the day of the hearing in a newspaper with general circulation in the city which made the annexation.

(c) Additional notice shall be given to a railroad with any railroad right-of-way or property in the territory to be annexed by certified mail at its latest address appearing on the tax rolls of the city, district, or county. (39th Legis., G.L., Ch. 25, Sec. 75d, sen. 2, 3, 4, as added.)

§ 51.728. Resolution Adding the Territory

If the board finds from the hearing that the territory proposed to be annexed will be benefited by the facilities or services afforded or to be afforded by the district, the board shall adopt a resolution annexing the territory to the district. (39th Legis., G.L., Ch. 25, Sec. 75d, sen. 5, as added.)

§ 51.729. Election to Assume Bonds and Authorize Tax

After territory is added to the district, the board may call an election within the district to determine whether the district as enlarged shall assume the outstanding tax-supported bonds, and the tax-supported bonds voted but not yet sold, and whether an ad valorem tax shall be levied on all taxable property in the district as enlarged for the payment of the bonds. The election shall be called and held in the manner provided in this chapter for elections for the issuance of bonds. (39th Legis., G.L., Ch. 25, Sec. 75d, sen. 6, 7, as added.)

§ 51.730. Extending Municipal District to Include Lands Annexed to City

If a district is a "Municipal District," and includes the total area of a city or town, and furnishes or has plans to furnish all or part of a water supply, sanitation facilities, flood protection, or other service for the general benefit of the inhabitants of the embraced city or town, the boundaries of the district shall be extended automatically to include land which the embraced city or town annexes by extending its boundaries to include land that is not already included in the district. The land annexed to the city or town shall constitute part of the district, but the inclusion in the district is not final until the board publishes notice of a hearing, holds a hearing, and hears evidence to consider the exclusion or retention in the district of any part of the added land, according to the applicable provisions of Sections 51.691–51.701 of this code. (39th Legis., G.L., Ch. 25, Sec. 75—a, as added.)

§ 51.731. Liability of Land Added to a District Operating under Article XVI, Section 59

(a) If land is added to a district operating under Article XVI, Section 59, of the Texas Constitution, the order of the board adding the land to the district may contain an agreement that the added land will be taxed on the benefit basis instead of the ad valorem basis. The agreement may provide that the added land will be taxed on a uniform acreage basis or on the plan of a definite annual payment.

(b) The board, in its order adding land to the district, shall set the amount of the debts to be paid by the owner of the added land and levy annual taxes against the land to pay the debts. The taxes assessed by the board constitute a lien against the added land in the same manner and to the same extent as if the land had been a part of the district at the time the indebtedness was incurred or authorized by an election held for that purpose.

(c) The added land is a part of the district and is liable for debts subsequently incurred by the district in the same manner as other land in the district. (39th Legis., G.L., Ch. 25, Sec. 147.)

§ 51.732. Consolidation of Districts

Two or more districts governed by the provisions of this chapter may consolidate into one district as provided by Sections 51.733–51.736 of this code. (39th Legis., G.L., Ch. 25, Sec. 129, sen. 1 (part).)

§ 51.733. Elections to Approve Consolidation

(a) After the directors of each district have agreed on the terms and conditions of consolidation, they shall order an election in each district to determine whether the districts should be consolidated.

(b) The directors of each district shall order the election to be held on the same day in each district and shall give notice of the election for at least 20 days in the manner provided by law for other elections.

(c) The districts may be consolidated only if the electors in each district vote in favor of the consolidation. (39th Legis., G.L., Ch. 25, Sec. 129, sen. 1 (part), 2, 3.)

§ 51.734. Governing Consolidated Districts

(a) After two or more districts are consolidated, they become one district, except for the payment of debts created before consolidation, and are governed as one district.

(b) During a period of 90 days after the date of the election to approve consolidation, the officers of each district shall continue to act jointly as officers of the original districts to wind up the affairs of their respective districts.

(c) The consolidation agreement may provide that the officers of the original districts shall continue to act jointly as officers of the consolidated district until the next general election or name persons to serve as officers of the consolidated district until the next general election if all officers of the original districts agree to resign.

(d) New officers of the consolidated district must qualify as officers of the district within the period of 90 days after the election and shall assume their offices at the expiration of the 90-day period.

(e) The current board shall approve the bond of each new officer. (39th Legis., G.L., Ch. 25, Sec. 129, sen. 6 (part), 7, 8, 9.)

§ 51.735. Debts of Original Districts

After two or more districts are consolidated, the debts of the original districts are protected and are not impaired. These debts may be paid by taxes or assessments levied on the land in the original districts as if they had not consolidated or contributions from the consolidated district on terms stated in the consolidation agreement. (39th Legis., G.L., Ch. 25, Sec. 129, sen. 4, 6 (part).)

§ 51.736. Assessment and Collection of Taxes

After consolidation, the officers of the consolidated district shall assess and collect taxes on property in the original district to pay debts created by the original district. (39th Legis., G.L., Ch. 25, Sec. 129, sen. 5.)

[Sections 51.737–51.780 reserved for expansion]

SUBCHAPTER P. DISSOLUTION OF DISTRICT

Section 51.781. Dissolution of District Prior to Issuance of Bonds

(a) If the electors of a district reject the proposal to issue construction bonds by a constitutional or statutory majority vote, the board must dissolve the district and liquidate the affairs of the district as provided in Sections 51.781–51.792 of this code.

(b) Subject to the provisions of Subchapter G of Chapter 50 of this code, if a district finds at any time before the authorization of construction bonds or the final lending of its credit in another form that the pro-

posed undertaking for any reason is impracticable or apparently cannot be successfully and beneficially accomplished, the board may issue notice of a hearing on a proposal to dissolve the district.

(c) Subject to the provisions of Subchapter G of Chapter 50 of this code, if 20 percent of the qualified voters of a district petition the board for a hearing on a proposal to dissolve the district and deposit with the board an amount estimated to cover the actual cost of giving notice and holding the hearing, the board shall publish notice of the hearing within 10 days and shall hold the hearing within 40 days after the filing of the petition, as provided in Sections 51.782–51.785 of this code. If the finding is against the petition, the deposit shall be applied to pay the cost of giving notice and holding the hearing. (39th Legis., G.L., Ch. 25, Sec. 77b, sen. 1, 2, 14, as added.)

§ 51.782. Notice of Hearing

The board shall post notice of the hearing on the bulletin board at the courthouse door of each county in which the district is located and at three or more other public places within the boundaries of the district. The notice must be posted at least 10 days before the hearing on the proposed dissolution of the district. (39th Legis., G.L., Ch. 25, Sec. 77b, sen. 3, 4, as added.)

§ 51.783. Hearing

The board shall hear all interested persons and shall consider their evidence at the time and place stated in the notice. (39th Legis., G.L., Ch. 25, Sec. 77b, sen. 5, as added.)

§ 51.784. Board's Order to Continue or Dissolve District

The board shall determine from the evidence whether the best interests of the persons, land, and property in the district will be promoted by prosecuting the district's plans or whether the best interests of the persons and property in the district will be served by dissolving the district, and the board shall enter the appropriate findings and order in the record. (39th Legis., G.L., Ch. 25, Sec. 77b, sen. 6, 7 (part), as added.)

§ 51.785. Judicial Review of Board's Order

The board's decree to continue or to dissolve the district shall be final and cannot be judicially reviewed except on the ground of fraud, palpable error, or gross abuse of discretion. (39th Legis., G.L., Ch. 25, Sec. 77b, sen. 7 (part), as added.)

§ 51.786. Appointment of Trustee

(a) If the board orders the dissolution of the district, it shall appoint a director or some other competent person as trustee to close the affairs of the district as soon as practicable.

(b) The board shall determine the term of service and the amount of compensation for the trustee. (39th Legis., G.L., Ch. 25, Sec. 77b, sen. 8, as added.)

§ 51.787. Discharge of District's Obligations by Trustee

(a) The trustee shall reduce all assets and resources of the district to possession and money and apply them to discharge the outstanding obli-

gations of the district, having regard to specific funds. (39th Legis., G.L., Ch. 25, Sec. 77b, sen. 9, as added.)

(b) If required, the board shall levy, assess, and collect sufficient additional taxes to pay all necessary expenses and outstanding obligations of the district. (39th Legis., G.L., Ch. 25, Sec. 77b, sen. 10, as added.)

§ 51.788. Discharge of Trustee

The trustee shall be discharged when all obligations of the district are paid and the trustee's account is verified and settled. (39th Legis., G.L., Ch. 25, Sec. 77b, sen. 11, as added.)

§ 51.789. Final Order of Dissolution

After all obligations are paid and the trustee is discharged, the board shall enter its final order of dissolution and record the final order in the deed records of the county or counties in which the district is located. (39th Legis., G.L., Ch. 25, Sec. 77b, sen. 12 (part), as added.)

§ 51.790. Water Rights of Dissolved District

Water rights held from the state shall revert to the state and may not be assigned by the district in anticipation of dissolution. (39th Legis., G.L., Ch. 25, Sec. 77b, sen. 12 (part), as added.)

§ 51.791. Taxes in Excess of District's Obligations

(a) If taxes have been collected by the dissolved district in excess of the amount required to liquidate the obligations of the district, the excess shall be paid ratably to the county treasurer or treasurers of the county or counties in which the district was located.

(b) The commissioners courts shall credit the money received from the dissolved district to the interest and sinking fund for any outstanding county bonds. If the county has no outstanding bonds, the money may be applied as the commissioners court lawfully directs. (39th Legis., G.L., Ch. 25, Sec. 77b, sen. 13, as added.)

§ 51.792. Permanent Record of Dissolved District

All records, vouchers, and accounts of the district shall be delivered to the commissioners court of the county in which the district's principal office was located and shall be preserved as a permanent record. (39th Legis., G.L., Ch. 25, Sec. 77b, sen. 15, as added.)

§ 51.793. Dissolution of District for Failure to Complete Plant

Subject to the provisions of Subchapter G of Chapter 50 of this code if a district has not within 10 years from the date of its creation commenced and completed the construction of a plant and improvements to carry out the purposes of its creation in accordance with the plans adopted by the district, the board may enter a resolution in its minutes to dissolve the district under the provisions of Sections 51.794–51.828 of this code. After compliance with these provisions, a vote of the electors of the district, and the payment of its valid, enforceable indebtedness, the district may be dissolved. (48th Legis., Ch. 328, Sec. 1.)

§ 51.794. Resolution to Dissolve District

The board shall find in its resolution to dissolve the district that the plans of the district are impracticable or that the purposes of the district

should be abandoned and shall state the reasons for the finding. (48th Legis., Ch. 328, Sec. 2, sen. 1.)

§ 51.795. Statements of Indebtedness and Expenses

The board shall prepare or have prepared and shall approve a statement of all valid, enforceable indebtedness of the district and shall enter the statement in the minutes. The board shall prepare or have prepared an estimate of all expenses incurred or to be incurred in the dissolution of the district and in the collection of sufficient taxes to pay all valid, enforceable indebtedness of the district. (48th Legis., Ch. 328, Sec. 2, sen. 2 (part).)

§ 51.796. Election to Approve Dissolution of District and Issuance of Dissolution Bonds

The board shall enter an order calling an election to determine whether or not the district shall be dissolved and bonds issued to pay the district's indebtedness and estimated expenses. (48th Legis., Ch. 328, Sec. 2, sen. 2 (part).)

§ 51.797. Maximum Amount, Interest Rate, and Maturity of Bonds

The maximum amount of bonds to be voted on and issued shall not be more than the total amount of the approved valid, enforceable indebtedness and the estimate of expenses, exclusive of the estimated cost of collection of taxes. The maximum amount of bonds, exclusive of interest and expenses of collection, to be issued for fees and expenses of dissolution of the district shall not be more than an amount equal to \$2 times the number of acres in the district. The bonds shall mature serially over a period of not more than seven years. (48th Legis., Ch. 328, Sec. 2, sen. 3, 4.)

§ 51.798. Notice of Election

(a) The president and secretary of the board shall issue notice of the election, stating:

- (1) the findings of the board with reference to the dissolution of the district;
- (2) the amount of bonds to be issued;
- (3) the interest rate on the bonds; and
- (4) the time and place of the election.

(b) The notice also shall contain a statement of the estimates and the expenses incurred and to be incurred in the dissolution of the district and the collection of taxes for the payment of the bonds and shall state that the bonds will be payable by the levy of taxes on the taxable property in the district in proportion to the values of the property as provided in Section 51.804 of this code.

(c) The notice shall be published once a week for two consecutive weeks in a newspaper with general circulation in the county or counties in which any part of the district is located. The first publication shall be at least 14 days before the day of the election. (48th Legis., Ch. 328, Sec. 3.)

§ 51.799. Procedure for Holding Election

(a) The ballots for the election shall be printed to provide for voting for or against the proposition: "Dissolution of the district and issuance of dissolution bonds and the levy of taxes for the payment of the bonds."

(b) The election shall be conducted and returns made and canvassed according to the provisions in this chapter for construction bond elections. (48th Legis., Ch. 328, Sec. 4.)

§ 51.800. Issuance and Sale of Dissolution Bonds

(a) If a majority of the electors at the election vote in favor of the dissolution of the district and the issuance of bonds and the levy of taxes for the payment of the bonds, the board shall issue and sell the bonds or any part of them. The bonds shall be known as "dissolution bonds."

(b) The board may deliver the dissolution bonds or any part of them in satisfaction of the valid, enforceable indebtedness of the district for which the bonds are issued, or in payment of expenses incurred or to be incurred in connection with the dissolution of the district, or in payment of services rendered or to be rendered to the district.

(c) The dissolution bonds shall be:

- (1) serially numbered, commencing with the first maturities;
- (2) issued in the name of the district;
- (3) signed by the president; and
- (4) attested by the secretary, with the seal of the district attached.

(d) The board shall determine the maturities of the bonds not to exceed seven years from their date, the denominations of the bonds, and the interest. (48th Legis., Ch. 328, Sec. 5.)

§ 51.801. Destroying Unsold Bonds

If a majority of the electors at the election vote in favor of the dissolution of the district, the board shall destroy all unsold bonds of the district and enter an order cancelling all unissued and unsold bonds authorized by the electors. After the destruction and the entry of the order, the bonds shall have no further force or effect. (48th Legis., Ch. 328, Sec. 6, sen. 1.)

§ 51.802. Board's Authority to Contract

The board may contract with trustees, engineers, attorneys, and others it considers necessary or desirable to properly liquidate and wind up the affairs of the district. The board also may assume obligations made by others for the benefit of the district, or from which the district benefited, which in its judgment may be fair and equitable. (48th Legis., Ch. 328, Sec. 6, sen. 2.)

§ 51.803. Tax to Pay Dissolution Bonds

The order issuing the dissolution bonds shall provide that the principal of and interest on the bonds shall be payable from the proceeds of a tax to be levied on the taxable property located in the district. The tax shall be in an amount sufficient for the payment of the principal and interest. (48th Legis., Ch. 328, Sec. 7, sen. 1 (part).)

§ 51.804. Determining Amount of Tax

(a) The value of all of the taxable property of the district shall be taken at the assessed value as determined and approved by the board in the manner provided in this subchapter, and an amount equal to the total of the principal and all interest to maturity on the bonds voted plus the es-

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timated cost of collection of taxes shall be assessed against the taxable property of the district on the ad valorem basis.

(b) The tax against the taxable property of each owner shall be that portion of the total principal and interest of the dissolution bonds and costs of collection which the assessed value of the taxable property of the owner bears to the total assessed values in the district. (48th Legis., Ch. 328, Sec. 7, sen. 1 (part), 2.)

§ 51.805. Payment of Tax

The amount of the tax on the taxable property of each owner shall be payable in equal annual installments during the period in which the bonds mature, on dates specified in the order issuing the bonds. (48th Legis., Ch. 328, Sec. 7, sen. 3.)

§ 51.806. Advance Payment of Taxes in Cash

The order issuing the bonds shall provide that a property owner may secure release of the entire amount of his taxable property as assessed on the rolls from the tax levied for the dissolution bonds by the payment in cash of the full amount of tax. (48th Legis., Ch. 328, Sec. 8, sen. 1 (part).)

§ 51.807. Computing Amount of Advance Cash Payment

(a) In order to compute the full amount of an advance cash payment, the interest rate on the bonds shall be applied on an annual basis to each unpaid installment of taxes for the number of years the installment of taxes must run before being due. The total of the items computed shall be deducted from the face amount of the unpaid installments of taxes.

(b) In order to compute the full amount of an advance cash payment, the interest rate on the bonds shall be applied on an annual basis to each unpaid past-due installment of taxes for the number of years the installment has been past due, and 10 percent of the face amount of each installment that is past due shall be added as a penalty. The total of the items computed shall be added to the unpaid installments. (48th Legis., Ch. 328, Sec. 8, sen. 1 (part), 2, 3.)

§ 51.808. Surrender of Bonds in Payment of Taxes

The order issuing the bonds shall provide that any of the bonds with all unmatured interest and all appurtenant coupons may be surrendered at any time in payment of all unpaid installments of the taxes. The amount of taxes found to be due by the method provided in Section 51.809 of this code may be discharged by the surrender of the proper amount of dissolution bonds, together with all unpaid appurtenant interest coupons at the face value of the bonds and coupons. (48th Legis., Ch. 328, Sec. 8, sen. 4 (part), 9.)

§ 51.809. Computing Amount of Payment Made by Surrendering Bonds

(a) In order to compute payment by surrendering bonds, the interest rate on the bonds shall be applied on an annual basis to each unpaid installment of taxes for the number of years the installment must run before being due. The total of the items computed shall be deducted from the face amount of the unpaid installments of taxes.

(b) In order to compute payment by surrendering bonds, the interest rate on the bonds shall be applied to each unpaid installment of taxes for

the number of years the installment has been past due and 10 percent of the face amount of each installment of taxes that is past due shall be added as a penalty. The total of the items computed shall be added to the face amount of each unpaid installment of taxes. (48th Legis., Ch. 328, Sec. 8, sen. 4 (part), 5, 6, 7, 8.)

§ 51.810. Use by Trustee of Advance Payments of Tax

The order issuing the bonds shall provide that the bonds shall be called and redeemed by the trustee in the inverse order of their maturity and in the inverse order of their serial numbers. They shall be paid out of any funds received in advance payment of taxes that are not required for meeting any past-due and unpaid principal and interest or the next maturing installment of principal and interest. (48th Legis., Ch. 328, Sec. 8, sen. 10.)

§ 51.811. Approval and Registration of Dissolution Bonds

After the dissolution bonds are issued by the board and before they are put in circulation, the bonds, at the option of the board, shall either be submitted to and approved by the attorney general and registered by the comptroller as provided in Sections 51.416–51.418 of this code or be validated by suit as provided in Sections 51.423–51.431 of this code. The provisions of these sections of this code which are not inconsistent with the provisions of this subchapter are applicable to the dissolution bonds provided for in this subchapter. (48th Legis., Ch. 328, Sec. 9.)

§ 51.812. Preparing Tax Roll

Before the issuance and delivery of the bonds, the board shall prepare a tax roll in duplicate showing the full and true valuation of all property subject to taxation, the name of the owner of the property, if known; and if the name of the owner is not known, the tax roll shall state that the owner of the property is not known. (48th Legis., Ch. 328, Sec. 10, sen. 1.)

§ 51.813. Filing Tentative Tax Roll

After the tax roll is prepared, it shall be filed in the district office, if any, and if there is not, in the office of the county clerk of the county or counties in which the district is located. The tax roll shall be subject to public inspection. (48th Legis., Ch. 328, Sec. 10, sen. 2.)

§ 51.814. Notice of Meeting as Board of Equalization

(a) After the tax roll has been filed for at least five days, the board shall publish a notice once a week for two consecutive weeks in a newspaper with general circulation in the county or counties in which any part of the district is located. The first publication shall be at least 14 days before the meeting of the board of equalization.

(b) The notice shall call attention to the filing of the tax roll and the name and place or places where the tax roll is filed and available for inspection, and shall notify all interested persons of the time and place of the meeting of the board for the purpose of acting as a board of equalization to examine, correct, equalize, appraise, and approve the valuations of the taxable property of the district and improvements on taxable property as set forth in the tax roll. (48th Legis., Ch. 328, Sec. 10, sen. 3, 4.)

§ 51.815. Meeting as Board of Equalization

At the time and place stated in the notice, the board shall meet and examine the tax roll. The board shall equalize as nearly as possible the value of all property for taxation and fix the value of all property for taxation. (48th Legis., Ch. 328, Sec. 11, sen. 1 (part), 3.)

§ 51.816. Authority and Procedure as Board of Equalization

(a) Any interested person may appear at the meeting and offer evidence for or against any matter being considered by the board of equalization. The board may send for persons and papers, and may administer oaths to persons who testify before the board, and may ascertain the full true value of all property subject to taxation.

(b) The board may lower or raise the valuation of all property listed on the tax roll and place property on the roll which did not appear on it. The board shall correct any errors of assessment and equalize the value of property appearing on the roll. (48th Legis., Ch. 328, Sec. 11, sen. 1 (part), 2, 4.)

§ 51.817. Approving Tax Roll

After the board of equalization finally fixes the valuation of all taxable property in the district and the tax roll of the district is finally prepared, the board shall meet and consider the tax roll, make all necessary corrections in the tax roll, and endorse its approval on the roll. (48th Legis., Ch. 328, Sec. 11, sen. 5.)

§ 51.818. Approved Tax Roll Not Subject to Revision

The action of the board in finally approving the tax roll is final and is not subject to revision by the board or any other tribunal. (48th Legis., Ch. 328, Sec. 11, sen. 6.)

§ 51.819. Filing Approved Tax Roll

After the final approval of the tax roll by the board, the board shall file the tax roll with the assessor and collector of the county or counties in which the district is located. (48th Legis., Ch. 328, Sec. 12, sen. 1 (part).)

§ 51.820. Collection of Taxes

The assessor and collector shall collect the taxes shown on the roll on the land located in the county for which he is assessor and collector at the time and in the manner specified by the board in its various orders issuing the dissolution bonds and levying the taxes. The assessor and collector is entitled to one percent of the amount collected for his services in collecting the taxes. (48th Legis., Ch. 328, Sec. 12, sen. 1 (part), 2.)

§ 51.821. Appointment of Trustee

(a) Before the issuance and delivery of dissolution bonds, the board shall appoint a trustee of the funds to be collected from the taxes. The trustee shall be an individual or a bank or trust company in the county or one of the counties in which the district is located.

(b) The board may determine the powers, rights, duties, liabilities, and other matters relating to the trusteeship and the appointment of succes-

or trustees which the board considers proper to effectuate the purpose of the trusteeship.

(c) The board may determine the bond to be given by the trustee and the amount to be paid to the trustee from the funds collected from the taxes. (48th Legis., Ch. 328, Sec. 13, sen. 1 (part), 2 (part).)

§ 51.822. Authority of the Trustee

The trustee shall receive from the assessor and collector all proceeds from the assessments less the assessor and collector's charges and shall be the paying agent of the district for the bonds. The bonds shall be payable at the place of business of the trustee. The trustee shall be authorized by the order providing for the issuance of the bonds to institute suits in the name of the district for the use and benefit of the holders of the bonds and to apply all sums of money recovered in the suits to the payment of the bonds. (48th Legis., Ch. 328, Sec. 13, sen. 1 (part), 2 (part).)

§ 51.823. Tax Lien

After filing the tax roll in the office of the assessor and collector, the taxes, penalties, interest, and attorney's fees shall become a specific charge on and be secured by a lien superior to all other liens, except tax liens, on the personal property, land, and improvements listed on the tax roll regardless of whether the ownership of the personal property, land, and improvements is correctly stated on the tax roll. (48th Legis., Ch. 328, Sec. 14, sen. 1 (part).)

§ 51.824. Foreclosure of Lien

(a) The lien shall be foreclosed for the full amount due and order of sale issued against the property or as much of it as may be found in a suit brought for the recovery of the taxes.

(b) The lien may be foreclosed in a suit or suits brought in the name of the district by the board, or by the trustee or his successor as provided by the board.

(c) The procedure for the suit shall be the procedure for ordinary civil foreclosure suits.

(d) The provisions of Chapter 506, Acts of the 45th Legislature, Regular Session, 1937, as amended (Article 7345D, Vernon's Texas Civil Statutes), shall not be applicable to the suits. (48th Legis., Ch. 328, Sec. 14, sen. 1 (part), 2, 3.)

§ 51.825. Default in Payment of Tax Installment

(a) Default in the payment of an installment of taxes levied for the payment of dissolution bonds for 60 days after the installment becomes due and payable as provided by the board shall, at the option of the board or the trustee, immediately mature the remaining installments and cause the entire amount of the taxes to immediately become due and payable.

(b) The trustee shall bring suit for the collection of the entire amount of the taxes and for the foreclosure of the lien securing the payment of the taxes. (48th Legis., Ch. 328, Sec. 15 (part).)

§ 51.826. Penalty and Attorney's Fee

(a) A penalty of 10 percent of the unpaid amount of taxes shall accrue immediately on default of payment of taxes after the 60 days.

(b) An attorney's fee of 10 percent of the unpaid amount of the taxes is due and payable immediately on institution of suit for collection and foreclosure.

(c) The penalty and attorney's fee shall be recovered in the suit and shall constitute an addition to the taxes and shall be secured by the tax lien. (48th Legis., Ch. 328, Sec. 15 (part).)

§ 51.827. Discharge of Lien

(a) On the final payment of the taxes, either the assessor and collector or the trustee shall issue a certificate certifying that the taxes have been fully satisfied and the lien is released.

(b) The execution and acknowledgment of the certificate and the recording of the certificate in the deed records of the county in which the property is located shall be full and conclusive evidence of the discharge of the taxes and lien. (48th Legis., Ch. 328, Sec. 16.)

§ 51.828. District Considered Dissolved

(a) On the issuance and sale or delivery of the dissolution bonds and the appointment and qualification of the trustee, the secretary shall deposit all available existing records of the district in the office of the county clerk of the county or one of the counties in which the district is located.

(b) The district immediately is considered dissolved for all purposes, except that the taxes levied against the taxable property may be enforced in the name of the district on behalf of the bondholders by the trustee or his successors. The surviving board may meet from time to time until the dissolution bonds are paid and discharged and may delegate its powers and give instructions to the trustee or his successors as the board sees fit and circumstances warrant. After the payment of all dissolution bonds, interest, and costs of collection, the board shall be dissolved. (48th Legis., Ch. 328, Sec. 17.)

§ 51.829. Dissolution of District in Counties of less than 11,000 Population

Subject to the provisions of Sections 50.251–50.256 of this code, a district located entirely in a county having a population of less than 11,000, according to the last preceding federal census, may be abolished by a majority vote of the electors residing in the district at an election held for the purpose of determining whether or not the district should be dissolved. (39th Legis., G.L., Ch. 25, Sec. 149, sen. 1, as amended.)

§ 51.830. Petition for Dissolution of District

A petition for the dissolution of the district shall be filed with the board and shall state the name of the district and the purpose for which the election is requested. The petition may refer to the order establishing the district for boundaries, limits, and area of the district. (39th Legis., Ch. 25, Sec. 151, as added.)

§ 51.831. Signatures on Petition

A petition for dissolution of the district may be signed and filed in two or more copies. The petition shall be signed by a majority in number of the property owners with land in the district and the property owners of a majority in value of the land in the district, as shown by the tax rolls

of the district, or 50 landowners if the number of landowners in the district is more than 50. (39th Legis., G.L., Ch. 25, Sec. 150, as added.)

§ 51.832. Procedure for Holding Election

(a) An election to determine whether or not the district shall be dissolved shall be held in accordance with the provisions of Subchapter E, of this chapter.

(b) The ballots for the election shall be printed to provide for voting for or against the proposition: "The dissolution of district."

(c) The returns of the election shall be canvassed and the result declared by the board. The board shall enter an order in its minutes declaring the result of the election, which order shall be made and entered in accordance with Section 51.034 of this code. The order shall be filed in the office of the county clerk and recorded in the deed records of the county as provided in Section 51.034 of this code. (39th Legis., G.L., Ch. 25, Sec. 152, 153, sen. 2, as added.)

§ 51.833. Election in District Including City, Town, or Municipal Corporation

In an election to dissolve a district in which a city, town, or municipal corporation is located, the city, town, or municipal corporation shall be a separate voting precinct, and the ballots cast in the city, town, or municipal corporation shall be counted and canvassed to show the result of the election there. If the city, town, or municipal corporation votes against the dissolution of the district and the balance of the district votes for the dissolution of the district, the district shall be dissolved. (39th Legis., G.L., Sec. 154, as added.)

§ 51.834. Subsequent Election

If the proposition to dissolve the district fails to carry at the election held for that purpose, no other election for the same purpose shall be held within one year after the date of the election. (39th Legis., G.L., Ch. 25, Sec. 155, as added.)

§ 51.835. District Dissolved

If a majority of those voting at the election vote in favor of dissolving the district, the district shall be dissolved and shall have no further authority after the election, except that any debts incurred shall be paid and the organization shall be maintained until all the debts are paid. (39th Legis., G.L., Ch. 25, Sec. 153, sen. 1, as added.)

§ 51.836. Taxes to Pay Indebtedness after Dissolution

If a district has outstanding bonds or other indebtedness maturing beyond the current year in which the dissolution occurs, the commissioners court of the county in which the district is located shall levy and have collected, as county taxes are assessed and collected, sufficient taxes on all taxable property in the district to pay the principal of and interest on the bonds and other indebtedness when due. (39th Legis., G.L., Ch. 25, Sec. 149, sen. 2, as amended.)

**CHAPTER 52. UNDERGROUND WATER CONSERVATION
DISTRICTS**

SUBCHAPTER A. GENERAL PROVISIONS

Section 52.001. Definitions

In this chapter, unless the context requires a different definition:

(1) "Commission" means the Texas Water Rights Commission. (39th Legis., Ch. 25, Sec. 3c, subsec. A(1), as amended; subsec. I, sen. 3, as amended.)

(2) "District" means an underground water conservation district created under this chapter. (39th Legis., Ch. 25, Sec. 3c, subsec. A(2), as amended.)

(3) "Underground water" means water percolating below the surface of the earth and that is suitable for agricultural, gardening, domestic, or stock raising purposes, but does not include defined subterranean streams or the underflow of rivers. (39th Legis., Ch. 25, Sec. 3c, subsec. A(3), as amended.)

(4) "Underground water reservoir" means a specific subsurface water-bearing reservoir having ascertainable boundaries and containing underground water that can be produced from a well at a rate of 150,000 gallons or more a day. (39th Legis., Ch. 25, Sec. 3c, subsec. A(4), as amended.)

(5) "Subdivision of an underground water reservoir" means a reasonably definable part of an underground water reservoir in which the underground water supply will not be unreasonably affected by withdrawing water from any other part of the reservoir, as indicated by known geological and hydrological conditions and relationships and on foreseeable economic development at the time the subdivision is designated or altered. (39th Legis., Ch. 25, Sec. 3c, subsec. A(5), sen. 1, as amended.)

(6) "Waste" means:

(A) withdrawal of underground water from an underground water reservoir at a rate and in an amount that causes or threatens to cause intrusion into the reservoir of water unsuitable for agricultural, gardening, domestic, or stock raising purposes;

(B) the flowing or producing of wells from an underground water reservoir if the water produced is not used for a beneficial purpose;

(C) escape of underground water from an underground water reservoir to any other reservoir that does not contain underground water;

(D) pollution or harmful alteration of underground water in an underground water reservoir by salt water or other deleterious matter admitted from another stratum or from the surface of the ground; or

(E) willfully causing, suffering, or permitting underground water produced for irrigation or agricultural purposes to escape into any river, creek, natural watercourse, depression, lake, reservoir, drain, sewer, street, highway, road, or road ditch, or onto any land other than that of the owner of the well. (39th Legis., Ch. 25, Sec. 3c, subsec. A(6), as amended.)

(7) "Use for a beneficial purpose" means use for:

(A) agricultural, gardening, domestic, stock raising, municipal, mining, manufacturing, industrial, commercial, recreational, or pleasure purposes;

(B) exploring for, producing, handling, or treating oil, gas, sulphur, or other minerals; or

(C) any other purpose that is useful and beneficial to the user. (39th Legis., Ch. 25, Sec. 3c, subsec. A(7), as amended.)

(8) "Segregated irrigated area" means an irrigated area separated from other irrigated areas by at least five miles of unirrigated land. (39th Legis., Ch. 25, Sec. 3c, subsec. A(8), as amended.)

§ 52.002. Ownership of Underground Water

The ownership and rights of the owner of the land and his lessees and assigns in underground water are hereby recognized, and nothing in this code shall be construed as depriving or divesting the owner or his lessees and assigns of the ownership or rights, subject to the rules promulgated by a district under this chapter. (39th Legis., Ch. 25, Sec. 3c, Subsec. D, sen. 1, as amended.)

§ 52.003. Surface Water Laws not Applicable

The laws and administrative rules relating to the use of surface water do not apply to underground water. (39th Legis., Ch. 25, Sec. 3c, subsec. D(1), as amended.)

§ 52.004. Application of Chapter and District Rules

The provisions of this chapter and the rules adopted by a district under this chapter apply only in the area designated by the commission as an underground water reservoir or a subdivision of an underground water reservoir over which the district is organized. (39th Legis., Ch. 25, Sec. 3c, subsec. D(5), as amended.)

[Sections 52.005–52.020 reserved for expansion]

SUBCHAPTER B. CREATION OF DISTRICT

Section 52.021. Purpose

In order to provide for the conservation, preservation, protection, recharging, and prevention of waste of the underground water of underground water reservoirs or their subdivisions, consistent with the objectives of Article XVI, Section 59, of the Texas Constitution, underground water conservation districts may be created as provided by this chapter. (39th Legis., Ch. 25, Sec. 3c, subsec. B, sen. 1, 2 (part), as amended.)

§ 52.022. Method of Creating District

Except as otherwise provided by this subchapter, the provisions in Chapter 51 of this code for creating water control and improvement districts apply to the creation of underground water conservation districts to the extent that those provisions may be made applicable. (39th Legis., Ch. 25, Sec. 3c, subsec. B, sen. 2 (part), as amended.)

§ 52.023. Boundaries of District

(a) Neither the commission nor a commissioners court may consider a petition for the creation of a district unless the proposed boundaries of

the district are coterminous with the boundaries of an underground water reservoir or a subdivision of an underground water reservoir, as previously designated by the commission.

(b) Subject to Subsection (a) of this section, a district may include all or part of one or more counties, cities, districts, or other political subdivisions. (39th Legis., Ch. 25, Sec. 3c, subsec. C, sen. 1, 2, as amended.)

§ 52.024. Designation of Reservoirs and Subdivisions

(a) On its own motion from time to time, or on receiving a petition conforming to the requirements of Section 51.013 of this code, the commission, after notice and hearing as provided by Sections 51.018 and 51.027–51.029 of this code, shall designate underground water reservoirs and subdivisions of underground water reservoirs.

(b) On the request of any person interested in the petition, or on the request of the commission, the Texas Water Development Board shall prepare available evidence relating to the existence, area, and characteristics of the reservoir or subdivision. Before making the designation, the commission shall consider the evidence prepared by the board and other evidence submitted at the hearing.

(c) The commission may alter the boundaries of designated underground water reservoirs and subdivisions as required by future conditions and as justified by factual data. However, an alteration of boundaries does not invalidate the previous creation of any district.

(d) When the commission has designated the boundaries of a subdivision as provided by this section, its findings on the location of the boundaries, the questions of “reasonableness” and “affect,” as referred to in Section 52.001(5) of this code, and all other questions essential to the existence of a subdivision, are conclusive and final unless a suit is brought under Section 52.301 of this code within the 30-day period immediately following the date on which the commission enters its order. (39th Legis., Ch. 25, Sec. 3c, subsec. C, sen. 3; subsec. I, sen. 1, 2; subsec. A(5), sen. 2; as amended.)

§ 52.025. Findings

(a) If the commissioners court or the commission finds that the district is feasible and practicable, that it would be a benefit to land in the district, and that it would be a public benefit or utility, the commissioners court or the commission shall make these findings and grant the petition.

(b) If the commissioners court or the commission finds that the district is not feasible and practicable, that it would not be a benefit to land in the district, that it would not be a public benefit or utility, or that it is not needed, the commissioners court or the commission shall refuse to grant the petition. (39th Legis., G.L., Ch. 25, Sec. 19, sen. 4, 5, as amended.)

§ 52.026. Segregated Irrigated Area

A district shall include no segregated irrigated area unless a majority of the qualified electors residing in the segregated irrigated area and voting at the election favor inclusion of the area within the district. (39th Legis., Ch. 25, Sec. 3c, subsec. E(1), as amended.)

[Sections 52.027–52.050 reserved for expansion]

SUBCHAPTER C. ADMINISTRATIVE PROVISIONS**Section 52.051. Administrative and Procedural Provisions**

Except as otherwise provided by this chapter, the administrative and procedural provisions of Chapter 51 of this code apply to districts created under this chapter. (39th Legis., Ch. 25, Sec. 3c, subsec. B, sen. 2 (part), as amended.)

§ 52.052. Election of Directors: Precinct Method

The directors of the district shall be elected according to the precinct method as prescribed by Chapter 51 of this code. However, if any part of a municipal corporation is a part of one precinct, then no part of the municipal corporation shall be included in another precinct, except that a municipal corporation having a population of more than 200,000 may be divided between two precincts. (39th Legis., Ch. 25, Sec. 3c, subsec. E(3), as amended.)

[Sections 52.053–52.100 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES**Section 52.101. Rule-making Power**

A district may make and enforce rules to provide for conserving, preserving, protecting, recharging, and preventing waste of the underground water of an underground water reservoir or its subdivision. (39th Legis., Ch. 25, Sec. 3c, subsec. B(1), B(2), as amended.)

§ 52.102. Rules: Publication, Effective Date

A brief resume of each rule shall be published once a week for two consecutive weeks in one or more newspapers to give circulation within the district. No rule may be made effective until at least 14 days have elapsed after the date of the first publication. (39th Legis., Ch. 25, Sec. 3c, subsec. B(9) (part), as amended.)

§ 52.103. Enforcement of Rules

The district may enforce its rules by injunction, mandatory injunction, or other appropriate remedy in a court of competent jurisdiction. (39th Legis., Ch. 25, Sec. 3c, subsec. B(9) (part), as amended.)

§ 52.104. Improvements and Facilities

The district may:

- (1) acquire land to erect dams or to drain lakes, draws, and depressions;
- (2) construct dams;
- (3) drain lakes, depressions, draws, and creeks; and
- (4) install pumps and other equipment necessary to recharge the underground water reservoir or its subdivision. (39th Legis., Ch. 25, Sec. 3c, subsec. B(6) (part), as amended.)

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§ 52.105 Sale and Distribution of Water Prohibited

No district may sell or distribute surface water or underground water for any purpose. (39th Legis., Ch. 25, Sec. 3c, subsec. B(6) (part), as amended.)

§ 52.106. Preferential Use Provisions Inapplicable

The preferential-use provisions of Section 51.185 of this code are not applicable to underground water conservation districts. (39th Legis., Ch. 25, Sec. 3c, subsec. D(2), as amended.)

§ 52.107. Engineering Surveys

The district may employ registered professional engineers to make surveys of the underground water reservoir or subdivision and surveys of the facilities for development, production, and use of the water, in order to determine the quantity of water available for production and use and to determine the improvements, development, and recharging needed by the reservoir or its subdivision. (39th Legis., Ch. 25, Sec. 3c, subsec. B(7), as amended.)

§ 52.108. Planning

(a) The district may develop comprehensive plans for the most efficient use of the underground water in the underground water reservoir or its subdivision and for controlling and preventing waste of underground water.

(b) The district shall specify in the plans, in as much detail as practicable, the acts, procedure, performance, and avoidance that are or may be necessary to effect the plans, including specifications. (39th Legis., Ch. 25, Sec. 3c, subsec. B(8) (part), as amended.)

§ 52.109. Research Projects

The district may carry out research projects, develop information, and determine limitations which should be made on withdrawing underground water from the underground water reservoir or its subdivision. (39th Legis., Ch. 25, Sec. 3c, subsec. B(8) (part), as amended.)

§ 52.110. Collection of Information

The district may collect information regarding the use of underground water and the practicability of recharging the reservoir or its subdivision. (39th Legis., Ch. 25, Sec. 3c, subsec. B(8) (part), as amended.)

§ 52.111. Publication of Plans and Information

The district may publish its plans and the information it develops, bring them to the attention of the users of underground water in the district, and encourage the users to adopt and use them. (39th Legis., Ch. 25, Sec. 3c, subsec. B(8) (part), as amended.)

§ 52.112. Records and Reports

The district may require that records be kept and reports be made of the drilling, equipping, and completing of water wells and of the production and use of underground water from the underground water reservoir or its subdivision. (39th Legis., Ch. 25, Sec. 3c, subsec. B(5) (part), as amended.)

§ 52.113. Drillers' Logs

The district may require that accurate drillers' logs be kept of water wells and that copies of drillers' logs and electric logs be filed with the district and the commission. (39th Legis., Ch. 25, Sec. 3c, subsec. B(5) (part), as amended.)

§ 52.114. Permits for Wells

The district may require permits for the drilling, equipping, or completing of wells, or for substantially altering the size of wells or well pumps, or for all of these operations. Permits may be issued subject to the rules made under Section 52.117 of this code and subject to terms and provisions with reference to the drilling, equipping, completion, or alteration of wells or pumps that may be necessary to conserve the underground water, prevent waste, minimize as far as practicable the drawdown of the water table or the reduction of artesian pressure, or lessen interference between wells. (39th Legis., Ch. 25, Sec. 3c, subsec. B(3), sen. 1, as amended.)

§ 52.115. Permit: Application and Hearing

The district shall promptly consider and pass on each application for a permit. If, within 20 days after the date it is submitted, an application has not been passed on or set for a hearing on a specific date, the applicant may petition the district court of the county where the land is located for a writ of mandamus to compel the district to act on the application or set a date for a hearing on the application. A hearing shall be held within 30 days after the setting of the date and the district shall act on the application within 10 days after the date of the hearing. (39th Legis., Ch. 25, Sec. 3c, subsec. B(3), sen. 3, 4, 5, as amended.)

§ 52.116. Drilling, Etc., Without Permit

Except as provided by Section 52.118 of this code, no person, firm or corporation may begin to drill a well in the district, or substantially alter the size of a well or pump, which well could reasonably be expected to produce more than 100,000 gallons of water a day from the reservoir or subdivision, without first obtaining a permit from the district. (39th Legis., Ch. 25, Sec. 3c, subsec. B(3), sen. 2, as amended.)

§ 52.117. Regulation of Spacing and Production

In order to minimize as far as practicable the drawdown of the water table or the reduction of artesian pressure, or to prevent waste, the district may provide for the spacing of water wells and may regulate the production of wells. (39th Legis., Ch. 25, Sec. 3c, subsec. B(4), sen. 1, as amended.)

§ 52.118. Exceptions; Limitations

(a) The district may not require a permit for the drilling or producing of a well drilled, completed, and equipped so that it will not produce more than 100,000 gallons of underground water a day. (39th Legis., Ch. 25, Sec. 3c, subsec. D(4)(b), as amended.)

(b) The district shall not deny the owner of a tract of land, or his lessee, who has no well capable of producing more than 100,000 gallons a day on the tract, either a permit to drill a well on his land or the privi-

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lege to produce underground water from his land, subject to the rules of the district. (39th Legis., Ch. 25, Sec. 3c, subsec. B(4), sen. 2, as amended.)

(c) The district may not restrict the production of any well that produces less than 100,000 gallons a day. (39th Legis., Ch. 25, Sec. 3c, subsec. D(4) (c) (part), as amended.)

(d) Nothing in this chapter applies to wells drilled for oil, gas, sulphur, or brine, or for core tests, or for injection of gas, salt water, or other fluid, or for any other purpose, under permits issued by the Texas Railroad Commission. The district shall not require a permit to drill a well to supply water for drilling any of these wells permitted by the Texas Railroad Commission. When the well ceases to be used for these purposes, it may then be used as an ordinary water well if it meets the spacing and other rules of the district; and its use is subject to the rules of the district. (39th Legis., Ch. 25, Sec. 3c, subsec. D(3), D(4)(a), as amended.)

(e) Water wells exempted under this section shall be equipped and maintained so as to conform to the district's rules requiring installation of casing, pipe, and fittings to prevent the escape of underground water from an underground water reservoir to any reservoir not containing underground water and to prevent the pollution or harmful alteration of the character of the water in any underground water reservoir. (39th Legis., Ch. 25, Sec. 3c, subsec. D(4)(c) (part), as amended.)

§ 52.119. Open or Uncovered Wells

(a) The district may require the owner or lessee of land on which an open or uncovered well is located to keep the well permanently closed or capped with a covering capable of sustaining weight of at least 400 pounds, except when the well is in actual use. (39th Legis., Ch. 25, Sec. 3c, subsec. B(11) (part), as amended.)

(b) As used in this section, "open or uncovered well" means an artificial excavation at least 10 feet deep and at least 10 inches but not more than six feet in diameter, that is dug or drilled for the purpose of producing water from the underground water reservoir and is not capped or covered as required by this chapter. (39th Legis., Ch. 25, Sec. 3c, subsec. B(11), (part), as amended.)

(c) If the owner or lessee fails or refuses to close or cap the well in compliance with this chapter within 10 days after being requested to do so in writing by an officer, agent, or employee of the district, any person, firm, or corporation employed by the district may go on the land and close or cap the well safely and securely. (39th Legis., Ch. 25, Sec. 3c, subsec. B(11), as amended.)

(d) Expenses incurred by the district in closing or capping a well, not to exceed \$100, constitute a lien on the land on which the well is located. (39th Legis., Ch. 25, Sec. 3c, subsec. B(11) (part), as amended.)

(e) The lien is perfected by filing in the deed records of the county where the well is located an affidavit, executed by any person conversant with the facts, stating the following:

- (1) the existence of the well;
- (2) the legal description of the property on which the well is located;
- (3) the approximate location of the well on the property;

- (4) the failure or refusal of the owner or lessee, after notification, to close the well within 10 days after the notification;
 - (5) the closing of the well by the district, or by an authorized agent, representative, or employee of the district; and
 - (6) the expense incurred by the district in closing the well. (39th Legis., Ch. 25, Sec. 3c, subsec. B(11) (part), as amended.)
- (f) The district may make and enforce rules that are necessary or appropriate to effectively exercise the powers granted in this section. (39th Legis., Ch. 25, Sec. 3c, subsec. B(11) (part), as amended.)
- (g) Nothing in this section affects the enforcement of Chapter 281, Acts of the 51st Legislature, 1949 (Article 1721, Vernon's Texas Penal Code). (39th Legis., Ch. 25, Sec. 3c, subsec. B(11) (part), as amended.)

§ 52.120. Illegal Drilling and Operation of Well; Suit

- (a) Drilling a well without a required permit or operating a well at a higher rate of production than the rate approved for the well is declared to be illegal, wasteful per se, and a nuisance. (39th Legis., Ch. 25, Sec. 3c, subsec. B(10), sen. 1, as amended.)
- (b) A person who has an estate in land which is adjacent to the land on which the well is located, or a part which lies within one-half mile of the well, may sue in a court of competent jurisdiction to restrain or enjoin the illegal drilling or operation, or both. The suit may be brought with or without the joinder of the district. (39th Legis., Ch. 25, Sec. 3c, subsec. B(10), sen. 2, as amended.)
- (c) The aggrieved party may also sue for damages for injuries he may have suffered by reason of the illegal operation and for other relief to which he may be entitled. In a suit for damages, the existence or operation of a well in violation of the rules of the district is prima facie evidence of illegal drainage. (39th Legis., Ch. 25, Sec. 3c, subsec. B(10), sen. 3, 4, as amended.)
- (d) The suit may be brought in the county where the illegal well is located or in the county where all or part of the affected land is located. (39th Legis., Ch. 25, Sec. 3c, subsec. B(10), sen. 5, as amended.)
- (e) The remedies provided by this section are cumulative of other remedies available to the individual or the district. (39th Legis., Ch. 25, Sec. 3c, subsec. B(10), sen. 6, as amended.)
- (f) A suit brought under this section shall be advanced for trial and determined as expeditiously as possible. The court shall not grant a postponement or continuance, including a first motion, except for reasons considered imperative by the court. (39th Legis., Ch. 25, Sec. 3c, subsec. B(10), sen. 7, as amended.)

[Sections 52.121–52.200 reserved for expansion]

SUBCHAPTER E. TAX AND BOND PROVISIONS

Section 52.201. Limit on Taxing Power

The district may not levy or collect taxes on property in the district at a rate greater than 50 cents on the \$100 assessed valuation. (39th Legis., Ch. 25, Sec. 3c, subsec. G, as amended.)

§ 52.202. Bonds: Approval of Commission not Required

A district proposing to issue bonds is not required to submit its plans to and secure approval of the commission under Sections 51.421–51.422 of this code. (39th Legis., Ch. 25, Sec. 3c, subsec. E(2), as amended.)

[Sections 52.203–52.300 reserved for expansion]

SUBCHAPTER F. JUDICIAL REVIEW

Section 52.301. Suit Against District or Commission

(a) A person, firm, corporation, or association of persons affected by and dissatisfied with any provision of this chapter or with any rule or order made by a district under this chapter is entitled to file a suit against the district or its directors to challenge the validity of the law, rule, or order. The suit shall be filed in a court of competent jurisdiction in any county in which the district or any part of the district is located.

(b) A person, firm, corporation, or association of persons affected by and dissatisfied with any provision of this chapter or by an act of the commission is entitled to file suit against the commission to challenge the validity of the law or the act of the commission. The suit shall be filed in a court of competent jurisdiction in Travis County. (39th Legis., Ch. 25, Sec. 3c, subsec. F, sen. 1, as amended.)

§ 52.302. Suit to Be Expedited

A suit brought under this subchapter shall be advanced for trial and determined as expeditiously as possible. No postponement or continuance shall be granted except for reasons considered imperative by the court. (39th Legis., Ch. 25, Sec. 3c, subsec. F, sen. 2, as amended.)

§ 52.303. Trial of Suit

The burden of proof is on the petitioner, and the challenged law, rule, order, or act shall be deemed prima facie valid; but the trial shall be de novo, and the court shall determine all issues of law and fact independent of any determination by the district or the commission. (39th Legis., Ch. 25, Sec. 3c, subsec. F, sen. 3, as amended.)

§ 52.304. Subchapter Cumulative

The provisions of this subchapter do not affect other legal or equitable remedies that may be available. (39th Legis., Ch. 25, Sec. 3c, subsec. F, sen. 4, as amended.)

[Sections 52.305–52.400 reserved for expansion]

SUBCHAPTER G. DISSOLUTION OF DISTRICT

Section 52.401. Dissolution

(a) A district may be dissolved in the manner provided by Sections 51.781–51.792 of this code.

(b) A district composed of territory entirely within one county may be dissolved even if it has outstanding indebtedness that matures after the year in which the district is dissolved. In this case, the commissioners

court shall levy and collect taxes on all taxable property in the district in an amount sufficient to pay the principal of and interest on the indebtedness when due. The taxes shall be levied and collected in the same manner as county taxes.

(c) This section does not apply to any district composed of territory in more than one county. (39th Legis., Ch. 25, Sec. 3c, subsec. H, as amended.)

CHAPTER 53. FRESH WATER SUPPLY DISTRICTS

SUBCHAPTER A. GENERAL PROVISIONS

Section 53.001. Definitions

In this chapter:

- (1) "District" means a fresh water supply district established under this chapter.
- (2) "Board" means the board of supervisors of a district.
- (3) "Improvement" means a facility for conserving, transporting, or distributing fresh water. (New.)

[Sections 53.002–53.010 reserved for expansion]

SUBCHAPTER B. CREATING AND DIVIDING A DISTRICT

Section 53.011. Creating a District

A district is created by petition, hearing, and election. (New.)

§ 53.012. Cities and Towns

Cities and towns are includable in a district. (R.S. Art. 7881, sen. 3.)

§ 53.013. Presenting Petition

A person may present a petition requesting creation of a district to the commissioners court of the county which includes the land in the proposed district. If the commissioners court is not in session, the petition may be presented to the county judge. (R.S. Art. 7882, sen. 1.)

§ 53.014. Requisites of Petition

To be sufficient, the petition must:

- (1) contain the signatures of 50 or a majority of the electors of the proposed district who own land in the proposed district; and
- (2) state:
 - (A) the boundaries of the proposed district;
 - (B) the general nature of the projects proposed to be done;
 - (C) the necessity for the proposed district;
 - (D) the feasibility of the proposed district; and
 - (E) the proposed name for the district, which must include the name of the county in which it is situated. (R.S. Art. 7882, sen.

2.)

§ 53.015. Deposit

The person who presents the petition shall at the same time pay a deposit of \$100 to the county clerk. The clerk shall pay out the deposit on

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vouchers approved by the county judge for all expenses necessary for the hearing and the election for the creation of the district. After the election, the clerk shall return any portion of the deposit which is left to the petitioners or their attorney. (R.S. Art. 7883.)

§ 53.016. Time and Place of Hearing

The commissioners court or county judge shall immediately set a time and place for a hearing on the petition by the commissioners court. The hearing must be held during the period beginning on the 15th day and ending with the 30th day after the day the petition is presented. (R.S. Art. 7884, sen. 1 (part), as amended.)

§ 53.017. Notice

(a) The county clerk shall issue notice of the time and place of the hearing, and in the notice he shall include a statement that any person is entitled to appear at the hearing, challenge the form and allegations of the petition, and contest the proposition that the projects to be undertaken by the proposed district would benefit the land inside its boundaries.

(b) The county clerk may deliver the notice to any adult who is willing to execute it as directed by Section 53.018 of this code. (R.S. Art. 7884, sen. 1 (part), 2, as amended.)

§ 53.018. Posting Notice

(a) The person receiving the notice shall post a copy of it at the courthouse door and a copy at each of four different places inside the proposed district. He shall post the notice for at least the 10 days that immediately precede the day set for the hearing.

(b) The person posting the notice shall swear in writing, before some officer who is authorized by law to administer oaths, that he posted the notice according to the provisions of Subsection (a) of this section. The sworn written statement is conclusive of the facts sworn to. (R.S. Art. 7885.)

§ 53.019. Hearing Powers

(a) The commissioners court shall have jurisdiction to determine all issues pertaining to the sufficiency of the petition and shall allow any interested person to appear before it in person or by attorney to offer testimony relative to the sufficiency of the petition. (R.S. Art. 7886, sen. 1, 2.)

(b) The commissioners court may adjourn the hearing from day to day as is necessary to complete the hearing. (R.S. Art. 7886, sen. 3.)

(c) The commissioners court may make all orders necessary to determine the matters before it. (R.S. Art. 7885, sen. 4.)

§ 53.020. Findings; Ordering Election

(a) The commissioners court shall order an election to determine whether or not the proposed district shall be created, if, at the hearing of the petition, the commissioners court finds:

(1) that the petition conforms to the requirements of Section 53.014 of this code;

(2) that the projects to be undertaken by the proposed district are feasible, practical, and necessary; and

(3) that the projects would benefit the land inside the proposed district.

(b) The commissioners court by order shall set the day for the election, which must be held during the period beginning on the 20th day and ending with the 30th day after the day the order is made. (R.S. Art. 7887 (part), as amended.)

§ 53.021. Officers to be Elected

In the election, five supervisors and the tax assessor and collector are elected. (R.S. Art. 7887 (part), as amended.)

§ 53.022. Notice of Election

(a) The commissioners court shall prepare a notice of the election, stating:

- (1) the time and places of holding the election;
- (2) the boundaries of the proposed district;
- (3) the proposition to be voted on;
- (4) the officers to be voted for; and
- (5) the presiding officers appointed to hold the election.

(b) The county clerk shall post the notice at the courthouse door for at least the 20 days immediately preceding the day of the election. (R.S. Art. 7888.)

§ 53.023. Conduct of Election

The commissioners court shall select and name the polling places for each election. Each district is an election precinct for an election held under this chapter. The commissioners court shall appoint a presiding judge, one other judge, and two clerks for each polling place. (R.S. Art. 7889.)

§ 53.024. Ballot for Election

The commissioners court shall provide the ballots for the election, and on each ballot the commissioners court shall have only the following information printed:

- (1) the proposition relating to creation of the district;
- (2) the names of the persons who were recommended as supervisors and as tax assessor and collector in the petition;
- (3) five blank lines under an appropriate heading for write-in votes for the office of supervisor; and
- (4) one blank line under an appropriate heading for a write-in vote for the office of tax assessor and collector. (R.S. Art. 7890.)

§ 53.025. Returns; Canvass

Immediately after the election, the presiding judges shall make out and deliver the returns in the same manner that returns are made out and delivered in general elections. The commissioners court, at a regular or called session, shall immediately canvass the returns and declare the result. (R.S. Art. 7892, sen. 1, 2 (part).)

§ 53.026. Declaration of Result

(a) If the result of the election is in favor of creating the district, then the commissioners court shall make and enter in its minutes an or-

der substantially in this form: "_____ and _____ others having petitioned for the creation of _____ County Fresh Water Supply District No. _____; an election having been held in the proposed district on _____; and a majority of the votes cast in the election having favored creation of the district; now, therefore, the court declares that _____ County Fresh Water Supply District No. _____ is created, with the following metes and bounds: (Field notes)."

(b) The first district created in a county is "No. 1," the second district is "No. 2," and so on consecutively. (R.S. Art. 7893.)

§ 53.027. Recordation of Order

After entering the order creating the district, the commissioners court shall make a certified copy of the order. The commissioners court shall file this copy with the county clerk. The county clerk shall record the certified copy in the deed records of the county. Recording the order gives notice of its contents to the same extent that recording a deed gives notice of its contents. The district shall pay all costs of making and recording the copy. (R.S. Art. 7894.)

§ 53.028. Certificates of Election

The commissioners court shall issue certificates of election to the five persons receiving the most votes for supervisor and to the person receiving the most votes for tax assessor and collector. If two or more persons receive the same number of votes for the position of fifth supervisor, the commissioners court shall select one of them to be the fifth supervisor. (R.S. Art. 7892, sen. 2 (part), 3.)

§ 53.029. Division of Certain Districts

A district located in a county having a population of 800,000 or more, according to the last preceding federal census, may be divided into two new districts if it has no outstanding bonded debt and is not levying ad valorem taxes. The division procedure is prescribed by Sections 53.030 to 53.041 of this code. (54th Legis., Ch. 174, Sec. 1 (part).)

§ 53.030. Ordering Election

The board may order a special election on its own motion or on presentation of a petition signed by 20 or more qualified property taxpaying electors of the district. (54th Legis., Ch. 174, Sec. 1 (part).)

§ 53.031. Order: Metes and Bounds

The petition for election and the order and notices of election must set forth the metes and bounds of the two proposed new districts. (54th Legis., Ch. 174, Sec. 2, sen. 1.)

§ 53.032. Order: Time of Election

In the order the board shall set the time for the election, which must be held before the expiration of the 30th day after the day the order is made. (54th Legis., Ch. 174, Sec. 2, sen. 2 (part).)

§ 53.033. Order: Election of Supervisors

The board shall include in the order a statement that if the election results in division of the district, the two new districts will each be governed by a board of five supervisors elected in the same election. (54th Legis., Ch. 174, Sec. 2, sen. 4.)

§ 53.034. Order: Division of Property and Money

In the election order the board shall state in a general way how the properties and any money on hand will be divided between the two new districts if the election is in favor of dividing into two districts. The basis set by the board is controlling. (54th Legis., Ch. 174, Sec. 2, sen. 6.)

§ 53.035. Notice of Election

The board shall give notice of the election by:

- (1) posting copies of the election order at each of three public places inside the district for at least the 10 days immediately preceding the date of the election; or
- (2) publishing the order in a newspaper of general circulation in the county in which the district is located; or
- (3) both posting and publishing the order. (54th Legis., Ch. 174, Sec. 2, sen. 2 (part).)

§ 53.036. Candidates for Supervisor

(a) To be qualified for election as a supervisor of one of the proposed new districts, a person must:

- (1) be a resident of the territory to be included in the new district;
- (2) have been a resident of the county for six months and the state for one year immediately preceding the day of the election; and
- (3) have the qualifications prescribed by Section 53.063 of this code for supervisors.

(b) A qualified person may have his name printed on the ballot as a candidate for supervisor of a proposed new district by filing a written application with the secretary of the board of supervisors of the existing district at least 10 days before the day of the election. (54th Legis., Ch. 174, Sec. 4, sen. 1, 2, 3.)

§ 53.037. Ballots and Election Supplies

The board shall furnish the ballots and election supplies necessary to hold the election. The board shall pay for the ballots, election supplies, and other expenses of the election from district funds. (54th Legis., Ch. 174, Sec. 3, sen. 1, 2.)

§ 53.038. Conduct of Election

The board shall appoint a presiding judge and two or more clerks to assist him in holding the election. The election is governed by the general election laws except as otherwise provided in this chapter. (54th Legis., Ch. 174, Sec. 2, sen. 3.)

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§ 53.039. Canvassing Returns

Immediately after the election is held, the presiding judge shall make out and deliver the returns to the board, and the board shall then canvass the returns and declare the result. (54th Legis., Ch. 174, Sec. 3, sen. 3.)

§ 53.040. Elected Supervisors Take Office

If the election results in a division of the district, the five candidates receiving the most votes in each new district shall be declared elected. They shall immediately qualify by taking the constitutional oath of office and shall file the oath with the county clerk. (54th Legis., Ch. 174, Sec. 4, sen. 4 (part).)

§ 53.041. Completing Membership of the Board

If no supervisors are elected, or if a full board is not elected, the commissioners court shall appoint the needed members of the board. (54th Legis., Ch. 174, Sec. 2, sen. 5.)

§ 53.042. Newly Elected Supervisors—Term of Office

The newly elected supervisors hold office until the new district's first general election and then until their successors are elected and have qualified. (54th Legis., Ch. 174, Sec. 4, sen. 4 (part), 5.)

§ 53.043. Powers of New District

A district created by the division of an existing district into two districts has all the powers and duties given by this chapter to any other district. (54th Legis., Ch. 174, Sec. 5.)

[Sections 53.044–53.060 reserved for expansion]

SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

Section 53.061. Creation of District

A commissioners court may create one or more fresh water supply districts in its county by following the procedure prescribed in Sections 53.011–53.029 of this code. (R.S. Art. 7881, sen. 1 (part).)

§ 53.062. Board of Supervisors

A district created under this chapter is governed by a board of five elected supervisors. Specific provisions for the election of supervisors are found in Section 53.021 (creation election) and Section 53.086 (biennial general election) of this code. (New.)

§ 53.063. Supervisor's Qualifications

To be qualified for election as a supervisor, a person must be:

- (1) a resident of the district;
- (2) an owner of land in the district; and
- (3) 21 years old or older at the time of his election. (R.S. Art. 7900.)

§ 53.064. Terms of Office and Succession

(a) The first elected supervisors hold office until the first general election of officers following their election. Their successors hold office for a term of two years.

(b) The provisions of Section 55.113 of this code govern the filling of a vacancy on the board of supervisors. (R.S. Art. 7901.)

§ 53.065. Board Officers and Meetings

(a) After each biennial election, the board shall organize by electing one of its members president.

(b) The board may appoint a secretary and may pay him a salary of \$150 a month or less.

(c) Three supervisors constitute a quorum, and a concurrence of three is necessary, for transacting any of the business of the district. (R.S. Art. 7903.)

(d) The board shall have an office in the district and shall hold meetings at the office at 10 a.m. on the first Monday in February, May, August, and November of each year. The board shall also hold special meetings at the office.

(e) A taxpayer, resident, or interested person may attend any meeting of the board. No person may participate in a meeting without the consent of the board. If given permission by the board, a person may present in an orderly manner any matter at the meeting. (R.S. Art. 7904.)

§ 53.066. Board Records

(a) The board shall keep an accurate record of all its meetings and proceedings.

(b) The board shall keep contracts, records of notices, duplicate vouchers, duplicate receipts, and all other accounts and records in a fireproof vault or safe. It shall deliver the records, which are the property of the district, to its successors in office. (R.S. Art. 7905.)

§ 53.067. Supervisor's Bond

Within 10 days after the commissioners court enters the order creating the district each supervisor shall execute a good and sufficient bond for \$5,000, payable to the district and approved by the commissioners court, conditioned on the faithful performance of his duties. (R.S. Art. 7896, sen. 1.)

§ 53.068. Supervisor's Oath

Each supervisor shall take the oath of office provided by statute for county commissioners. A supervisor, when taking the oath, shall substitute the name of the district for the name of the county. (R.S. Art. 7896, sen. 2.)

§ 53.069. Recording the Oath and Bond

(a) The commissioners court shall file each supervisor's bond and oath with the county clerk. The county clerk shall record the bond and the oath in the official bond records of the county.

(b) The county clerk shall deliver bonds filed with him to the district depository. The district depository shall keep the bonds as district records. (R.S. Art. 7896, sen. 3, 4.)

§ 53.070. Supervisor's Compensation

(a) A supervisor is entitled to receive for his services not more than \$10 for each day he actually engages in the work of the district.

(b) Before a supervisor may receive compensation for his services, he must submit a statement of his services similar to the one required by Section 55.111(b) of this code. (R.S. Art. 7902.)

§ 53.071. District Assessor and Collector

One person shall serve as both assessor and tax collector for the district. The tax assessor and collector is elected. The first assessor and collector is elected at the election to create the district. (R.S. Art. 7895, sen. 1.)

§ 53.072. Assessor and Collector's Qualifications

To be qualified for election as assessor and collector, a person must be a resident of the district and a qualified voter in the district. (R.S. Art. 7895, sen. 4.)

§ 53.073. Assessor and Collector's Term of Office

The first elected assessor and collector holds office until the next general election of officers following his election. The succeeding assessor and collectors hold office for terms of two years. The board shall fill any vacancy in the office of assessor and collector by appointment for the unexpired term. (R.S. Art. 7895, sen. 6, 7, 8.)

§ 53.074. Assessor and Collector's Bond

(a) Before beginning to perform his duties, the assessor and collector must execute a good and sufficient bond for \$5,000, payable to the district and approved by the commissioners court, conditioned on the faithful performance of his duties and on paying to the district depository all money which he receives as collector.

(b) The board may require the assessor and collector to execute additional bonded security. (R.S. Art. 7895, sen. 2, 3.)

§ 53.075. Assessor and Collector's Salary

The board shall fix the salary of the assessor and collector at \$2,400 a year or less. (R.S. Art. 7895, sen. 5.)

§ 53.076. District Engineer

The board may employ an engineer. (R.S. Art. 7912, sen. 1 (part).)

§ 53.077. Engineer's Compensation

The board shall fix the salary of the engineer at \$3,600 a year or less. (R.S. Art. 7912, sen. 2.)

§ 53.078. Establishment of Board of Equalization

At their first regular meeting, or as soon after that as practicable, the supervisors shall appoint three commissioners to be the board of equalization. The supervisors shall appoint the board of equalization members annually. (R.S. Art. 7948, sen. 1 (part).)

§ 53.079. Qualifications of Members of Board of Equalization

Each member of the board of equalization must be a qualified voter and resident property owner of the district. (New.)

§ 53.080. Oath of Members of Board of Equalization

Before beginning his duties each member of the board of equalization shall take the following oath: "I, _____, do solemnly swear that I will, to the best of my ability, make a full and complete examination, correction, equalization, and appraisal of all property in the district, as shown by the assessment list or books of the district assessor." The board shall enter each oath in the minutes. (R.S. Art. 7949.)

§ 53.081. Duties of Board of Equalization

The board of equalization has the same powers and duties with respect to the district as are provided by law for equalization boards of water improvement districts. (R.S. Art. 7950.)

§ 53.082. Meetings of Board of Equalization

At the meeting at which the board of equalization members are appointed, the board of supervisors shall set the time for the meeting of the board of equalization for the first year. At the first meeting, the board of equalization shall receive all assessments, lists, and books of the district assessor for examination, correction, equalization, appraisal, and approval. At all meetings of the board, a secretary shall keep a permanent record of the proceedings. (R.S. Art. 7948, sen. 1 (part), 2, 3.)

§ 53.083. Compensation of Board of Equalization Members and Secretary

Each member of the board of equalization is entitled to receive not more than \$5 a day for his services for the time actually engaged in discharging his duties. The secretary of the board of equalization is entitled to receive the same compensation as a board member. (R.S. Art. 7948, sen. 4.)

§ 53.084. Required Official Bonds

A bond required of an officer or employee of the district is governed by the provisions of Section 55.123 of this code, which governs the approval and furnishing of bonds by surety companies for officers and employees of water improvement districts. (R.S. Art. 7913.)

§ 53.085. Compensation of Other Officers

(a) If the compensation of an officer of a district is not provided for in this chapter, the district shall pay him the same compensation that he would receive for doing similar service as an officer of the county.

(b) The district shall pay a clerk who records orders the same compensation that a county clerk is paid for recording deeds. The district shall pay a person who posts notices the same compensation that a sheriff is paid for officially posting notices. (R.S. Art. 7898.)

§ 53.086. Date for General Elections

The district shall hold a general election every second year to elect five supervisors and one assessor and collector. The district shall hold

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the election on the first Tuesday in January. If the first Tuesday in January is a state or national holiday, the district shall hold the election on the next Tuesday. (R.S. Art. 7897, as amended.)

§ 53.087. District Seal

The district shall have a common seal which is circular in form with the name of the district surrounding a five-pointed star. (R.S. Art. 7916.)

§ 53.088. Status of the District

(a) A district is:

- (1) a governmental agency;
- (2) a body politic and corporate; and
- (3) a defined district within the meaning of Article XVI, Section 59, of the Texas Constitution.

(b) A district may, through its board, sue and be sued in any court of this state in the name of the district. All courts of this state shall take judicial notice of the creation of a district. A district shall contract and be contracted with in the name of the district. (R.S. Art. 7915.)

§ 53.089. Filling Offices Vacant Due to Lack of Candidates

(a) After a district has issued any bonds, if there are not enough qualified persons to fill all the offices of the district, an owner of any of the bonds may file a petition with the county clerk of any county in which the district is located to have the commissioners court appoint a board of supervisors and a secretary for the board for the district. The person who files the petition shall address the petition to the commissioners court and set forth the facts as to the insufficiency of the number of qualified persons. (R.S. Art. 7959—a, sen. 1.)

(b) When the petition is filed, the county judge shall by order set a date for a hearing on the merits of the petition and the commissioners court shall hold the hearing during the period beginning on the 30th day and ending with the 60th day after the day the petition is filed. The commissioners court shall give notice of the hearing, setting forth the time and place of the hearing and a brief description of the purpose of the hearing. The commissioners court shall have the notices posted in four places in the district and at the courthouse door. The commissioners court shall have the notices posted for at least the 20 days immediately preceding the day of the hearing. The commissioners court shall hold the hearing in the courtroom of the commissioners court. The commissioners court has exclusive original jurisdiction to hear and determine the matters and facts involved in the hearing. A district court of the county may review the findings and judgment of the commissioners court. (R.S. Art. 7959—a, sen. 2, 3, 4, 5.)

(c) If there is no governing body or board of supervisors of a district, this fact is prima facie proof that there are not enough qualified persons who are residents and property owners in the district to fill all the offices of the district. In this case, the petitioning bond owners are entitled to the relief given by this section. (R.S. Art. 7959—a, sen. 6.)

(d) If the commissioners court finds that the allegations in the petition are true and sufficient, the commissioners court shall enter its judgment and decree and appoint three disinterested commissioners to be the

board of supervisors and the board of equalization of the district. (R.S. Art. 7959—a, sen. 7.)

(e) An appointed commissioner must be a landowner of the county in which the district is located. He may or may not own land inside the district for which he is to act. No appointed commissioner may be related within the fourth degree of affinity or consanguinity to a member of the commissioners court that appoints him. (R.S. Art. 7959—a, sen. 8.)

(f) A commissioner who is appointed by the commissioners court shall be 21 years old or older. The appointed board and its secretary have the same powers and duties and are entitled to receive the same compensation as a regularly appointed board and its secretary. (R.S. Art. 7959—a, sen. 9, 10, 11.)

(g) If the commissioners court appoints commissioners as provided in Subsection (d) of this section, the tax assessor and collector of the county in which the district is located shall be ex officio tax assessor and collector of the district. If the positions of tax assessor and tax collector for the county are filled by two different persons, these persons shall fill the same positions, respectively, for the district. The county assessor and collector is entitled to receive the same compensation for his services as does a regularly elected district assessor and collector. (R.S. Art. 7959—a, sen. 12, 13, 14.)

(h) The commissioners court that grants the relief provided for in this section shall levy taxes on all taxable property inside the district in an amount sufficient to pay the interest on the bonds as it accrues and the principal as it matures. The tax assessor and collector shall assess and collect these taxes. (R.S. Art. 7959—a, sen. 15.)

[Sections 53.090–53.100 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES

Section 53.101. Purpose of District

Fresh water supply districts may be created to conserve, transport, and distribute fresh water from any sources for domestic and commercial purposes. (R.S. Art. 7881, sen. 1 (part), 2.)

§ 53.102. Constitutional Basis

The constitutional basis for this chapter is Article XVI, Section 59, of the Texas Constitution. (R.S. Art. 7881, sen. 1 (part).)

§ 53.103. Governmental Powers of District

A district has the powers of government and authority to exercise the rights, privileges, and functions given to it by this chapter or by any other state law. (R.S. Art. 7917, sen. 1.)

§ 53.104. Authority to Acquire Water Rights

A district may acquire water rights and privileges in any way that an individual or corporation may acquire them. A district may hold water rights and privileges, either by gift, purchase, devise, appropriation, or by other means. (R.S. Art. 7917, sen. 2.)

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§ 53.105. Duties—In General

The board shall control and manage the affairs of the district, including:

- (1) making all contracts for the district;
- (2) controlling the construction of all improvements and other works inside and outside the district; and
- (3) controlling the transportation and distribution of the water of the district. (R.S. Art. 7909.)

§ 53.106. Employees

The board may employ all necessary employees for the district, including:

- (1) a general manager;
- (2) attorneys;
- (3) a bookkeeper;
- (4) an engineer; and
- (5) assistants and laborers. (R.S. Art. 7911.)

§ 53.107. Distribution of Water and Use of Revenues Obtained from Distribution of Water

(a) The board shall:

- (1) prescribe the terms on which water will be furnished;
- (2) fix the rate to be paid by users of water from the district; and
- (3) make rules and regulations governing the distribution and use of water. (R.S. Art. 7910, sen. 1 (part).)

(b) The board shall apply any revenue obtained from the sale of water to operation and maintenance expenses. Any revenue left after paying these expenses shall be used to pay interest on bonds and other indebtedness incurred by the district with the remainder to be placed in the sinking fund. (R.S. Art. 7910, sen. 1 (part).)

§ 53.108. Right to Enter Land

The supervisors and employees of a district may go on any land inside or outside the district to examine the land with reference to:

- (1) the location of improvements to be constructed by the district; and
- (2) any other lawful purpose in regard to conserving, transporting, and distributing water. (R.S. Art. 7923.)

§ 53.109. Power of Eminent Domain

(a) The district may exercise the power of eminent domain to acquire the fee simple title, easement, or right-of-way over and through any public or private land, water, or land under water, inside or outside the district, necessary to construct and operate the improvements authorized by this chapter and to connect with pipelines belonging to other districts.

(b) The district may not exercise the power of eminent domain to take a right-of-way over or through:

- (1) a park;
- (2) a cemetery;
- (3) a manufacturing establishment; or
- (4) an established and developed water power existing at the time the district is created.

(c) The district shall pay fair and just compensation to the owners of pipelines in other districts to which the district connects its improvements. The district may connect its improvements with those of other districts only when the use will not impair the supply or service of the other districts.

(d) The board shall institute eminent domain proceedings in the name of the district. (R.S. Art. 7924, as amended.)

§ 53.110. Acquisition of Right-of-Way

(a) The district may acquire the rights-of-way for necessary improvements by gift, grant, purchase, or condemnation proceedings.

(b) The district may construct and maintain improvements inside and outside the district on the land it acquires. (R.S. Art. 7926.)

§ 53.111. Right-of-Way across Roads

A district has the right-of-way across any public or county road. The district shall restore the roads where crossed as nearly as is possible to their previous condition. (R.S. Art. 7927.)

§ 53.112. Use of Roadways

In order to secure fresh water, a district may construct necessary levees, bridges, and other improvements across or under:

- (1) railroad embankments, tracks, or rights-of-way;
- (2) public or private roads and their rights-of-way;
- (3) rivers;
- (4) improvements of other districts and their rights-of-way; and
- (5) other improvements and their rights-of-way. (R.S. Art. 7928.)

§ 53.113. Constructing Improvements on Railroad Ways

(a) Before the district may construct an improvement across or under any railroad property, the district must notify the railroad authorities of the district's intention to construct the improvement if the railroad does not do so.

(b) The railroad has 30 days from the day it receives the notice in which to decide whether or not to build the improvement itself, at its own expense and according to its own plans.

(c) If the railroad builds the improvement, it must do so in a manner which is satisfactory to the district. (R.S. Art. 7929.)

§ 53.114. Power to Construct Improvements

(a) A district may build and maintain necessary works and improvements inside and outside the district.

(b) A district may make any contracts necessary to build and maintain works and improvements. A district may employ any persons and means necessary to build and maintain works and improvements.

(c) With the consent of the proper governing bodies, a district may, if necessary, take over, by purchase or otherwise, all or part of any water plants or systems inside the district. (R.S. Art. 7918.)

§ 53.115. Duties of Engineer

(a) The engineer shall make maps and profiles of the district improvements, including any part of the improvements which extends beyond the boundaries of the district.

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- (b) The engineer may adopt other correct maps, plats, and surveys.
- (c) The engineer shall perform other duties required of him by the board. (R.S. Art. 7912, sen. 1 (part), 3.)

§ 53.116. Construction Contracts

- (a) A district may enter into necessary contracts for authorized construction and repairs. (47th Legis., Ch. 129, Sec. 10, sen. 1.)
- (b) Before awarding a contract of \$1,000 or more, the board shall ask for competitive bids on uniform written specifications, after advertising one time in a newspaper of general circulation in the county or district for at least five days before opening bids. (47th Legis., Ch. 129, Sec. 10, sen. 2.)
- (c) The board shall award each contract to the lowest and best bidder. (47th Legis., Ch. 129, Sec. 10, sen. 3 (part).)
- (d) The board shall require each contractor to execute a surety bond in a sum equal to the amount of the contract, to insure the faithful performance of the contract and payment for labor and materials. (47th Legis., Ch. 129, Sec. 10, sen. 3 (part).)
- (e) The bond shall be approved by the board and deposited with the depository, and a true copy of the bond shall be retained in the office of the district secretary. (R.S. Art. 7920, sen. 2.)
- (f) When the amount is \$1,000 or less, but more than \$150, the board may receive bids and award contracts without advertising or requiring bond. (47th Legis., Ch. 129, Sec. 10, sen. 4.)
- (g) When the amount is \$150 or less, the board may purchase on emergency requisitions. All of the provisions of Articles 1667 through 1673, Revised Civil Statutes of Texas, 1925, as amended, apply to the accounting of the district and the record of purchases, except as otherwise provided in this section. (47th Legis., Ch. 129, Sec. 10, sen. 5.)

§ 53.117. Formal Requirements of a District Contract

To be effective, a contract made by the board must be in writing and signed by the contractor and at least three supervisors. The board shall file a copy of each contract with the depository, where it may be inspected by any interested person. (R.S. Art. 7919, sen. 2.)

§ 53.118. Performance of Contract

The contractor shall fulfill the contract in accordance with the specifications and under the supervision of the board and the district engineer. The engineer shall inspect the work and report on the progress of the work. (R.S. Art. 7921, sen. 1, 2 (part).)

§ 53.119. Payment of Contracts

The board shall pay for the work in the manner provided for by law for contracts executed by water control and preservation districts. (R.S. Art. 7921, sen. 2 (part).)

§ 53.120. Power to Purchase Equipment

The board may buy necessary equipment and supplies that are required to construct, operate, and maintain the works and improvements of the district. (R.S. Art. 7914.)

§ 53.121. Constructing Sanitary Sewer Systems

(a) A district may purchase, construct, acquire, own, operate, repair, improve, and extend sanitary sewer systems to control wastes, if no other public sanitary sewer system is available for the area inside the fresh water supply district.

(b) Before a district may exercise the power given by this section, it must hold an election in the same manner as provided in this chapter for other elections of the district. (47th Legis., Ch. 129, Sec. 1, as amended.)

§ 53.122. Regulating Sanitary Conditions inside the District

(a) A district may regulate the installation, maintenance, and operation of plumbing fixtures and facilities inside the district for the purpose of:

- (1) maintaining safe and sanitary conditions; and
- (2) protecting the lives, health, and welfare of the people in the district.

(b) The board may set a reasonable penalty for violating any rule authorized by Subsection (a) of this section, within these limits:

- (1) a fine of not more than \$200;
- (2) confinement in the county jail for not more than 30 days; or
- (3) both the fine and the jail sentence.

(c) The penalty set by the supervisors is in addition to other penalties provided by law. A court of proper jurisdiction in the county where the district's principal office is located may enforce the penalties.

(d) A penalty for the violation of a rule is not valid unless a brief, substantial statement of the rule and the penalty is published once a week for two consecutive weeks in a newspaper of general circulation in the area in which the district is located. A penalty takes effect seven days after the second publication.

(e) The courts shall take judicial notice of the rules made by a district under this section. (47th Legis., Ch. 129, Sec. 5, sen. 1, 2, 3.)

§ 53.123. Interest in District Contract

(a) No supervisor, engineer, or employee of the district may have a direct or indirect interest in any contract for:

- (1) the purchase of material needed by the district; or
- (2) the construction of improvements by the district.

(b) A person who violates any provision of Subsection (a) of this section is guilty of a misdemeanor and upon conviction is punishable by:

- (1) a fine of not more than \$1,000 or confinement in the county jail for not less than six months nor more than one year, or by both; and
- (2) removal from office and disqualification for further employment by the district. (P.C. Art. 378.)

§ 53.124. Peace Officers

(a) A district may deputize peace officers, who may arrest any person who violates a rule of the district or a law of the state.

(b) The power of arrest of a peace officer appointed by a district extends only to offenses committed inside the district. (47th Legis., Ch. 129, Sec. 5, sen. 4.)

§ 53.125. Joint Projects

A district may act jointly with other districts, political subdivisions, cities, towns, states, and the federal government in exercising any power given by this chapter. The supervisors shall set the terms on which joint projects will be carried out. (R.S. Art. 7930.)

§ 53.126. Effect of Enumeration of Powers

No statement of specific powers in this chapter is a limitation on the general powers given by this chapter, unless it is specifically so stated. (R.S. Art. 7917, sen. 3.)

[Sections 53.127–53.140 reserved for expansion]

SUBCHAPTER E. GENERAL FISCAL PROVISIONS

Section 53.141. May Borrow Money

A district may borrow money to accomplish the purposes stated in Section 53.101 of this code. (R.S. Art. 7922, sen. 1, as amended.)

§ 53.142. Notes as Security

(a) The board may, without an election, borrow money on notes of the district at a rate of interest of six percent or less a year.

(b) The district shall pay these notes solely from gross revenues of the district's water system, less the reasonable cost of maintaining and operating the system. No obligation to pay these notes may ever be a charge on the property of the district or on taxes levied or collected by the district. The obligation is solely a charge on the revenues pledged for their payment. The district shall not pay any part of the obligation from taxes levied or collected by the district.

(c) The issuance of each note must be authorized by a majority vote of the board and the board, at the time of the authorization, shall set rates and charges for the use of the facilities or the services rendered by the district. The board shall set the rates in an amount sufficient to assure the prompt payment of the principal of and interest on the notes as they mature. (R.S. Art. 7922, sen. 3, 4, as amended.)

§ 53.143. Vouchers

(a) At least three supervisors shall sign each voucher to be paid by the district. Each voucher shall refer to the book and page of the minutes which authorized the payments.

(b) The board shall issue all vouchers from a regular duplicate book and shall retain the duplicates as part of the district records. (R.S. Art. 7906.)

§ 53.144. Payment of Organization Expenses

The board may pay all necessary expenses of creating the district and may reimburse any person, corporation, or association for money advanced to create or organize the district. The board shall pay these expenses from money obtained from the sale of bonds. (R.S. Art. 7899.)

§ 53.145. Payment of Election Expenses

The board shall pay all expenses of calling and holding each election, except the creation election, from any district funds except the interest and sinking fund. (R.S. Art. 7934.)

§ 53.146. Maintenance Fund

(a) A district shall have a maintenance and operating fund. The fund consists of all money collected by assessment or otherwise for maintaining and operating the property of the district.

(b) The board shall use the money in this fund to pay:

- (1) all salaries of officers and employees, other than that of the assessor and collector; and
- (2) operating expenses. (R.S. Art. 7957.)

§ 53.147. Payment of Premiums on Surety Bonds

The board may pay the premiums on surety bonds required of officials and employees of the district out of any available funds of the district. (47th Legis., Ch. 129, Sec. 8.)

§ 53.148. District Depository

(a) The board shall select a depository for the district in accordance with the provisions of law relating to the selection of county depositories. The duties of the depository are governed by the law relating to county depositories.

(b) In the selection of the depository, the board shall act in the same capacity as does the commissioners court in the selection of county depositories.

(c) The depository shall act as district treasurer and shall execute a bond in an amount determined by the board. The depository shall make and file reports and shall preserve the district records as required of depositories for water improvement districts by Section 55.426 of this code. (R.S. Art. 7907.)

§ 53.149. District Audit

(a) The board shall keep a complete record of accounts for the district. They shall, on June 1 of each year, appoint an auditor. The auditor shall examine the accounts, books, and reports of the depository, the assessor and collector, and the board.

(b) The auditor shall make a full written report showing in detail for what purposes the money from each fund has been expended. He shall file a copy of the report with the district depository, a copy with the board, and a copy with the county clerk.

(c) The auditor shall file the report on or before September 1 of each year. (R.S. Art. 7908.)

§ 53.150. Payment of Damages

The district shall pay out of any funds or property of the district, except the interest and sinking fund:

- (1) compensation and damages adjudicated in condemnation proceedings; and

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(2) compensation for damage done to the property of any person or corporation in the construction and maintenance of improvements. (R.S. Art. 7925.)

§ 53.151. Cost of Sanitary Sewer Systems

(a) The board may pay the cost of acquiring and repairing sanitary sewer systems from:

(1) the proceeds of sale of bonds or other obligations issued by the district;

(2) revenue obtained from maintenance taxes; or

(3) revenue from the operation of the district's improvements.

(b) The board may pay the cost of maintaining and operating sanitary sewer systems with funds obtained from maintenance taxes or from operating revenues. The board may not pay these costs with borrowed money. (47th Legis., Ch. 129, Sec. 3.)

[Sections 53.152–53.170 reserved for expansion]

SUBCHAPTER F. BOND AND TAX PROVISIONS

Section 53.171. Power to Issue Bonds

(a) A district may issue bonds to secure indebtedness.

(b) A district may not issue tax bonds or incur any debt which is to be paid with tax revenue unless an election is first held in the district and the proposition is approved by a majority of the electors of the district who vote in the election. (R.S. Art. 7922, sen. 2, as amended.)

§ 53.172. Ordering Bond Election

After the creation of a district and the qualification of the supervisors, the board may order an election in the district to authorize a bond issue. The board shall set the day for the election, which must be held during the period beginning on the 20th day and ending with the 30th day after the day of the order. At this election, the board shall submit only a proposition authorizing the issuance of bonds and the levy of a tax to pay the bonds. The ballots shall be printed to allow for voting for or against the proposition: "The issuance of bonds and the levy of taxes to pay the bonds." (R.S. Art. 7931.)

§ 53.173. Notice of Election

(a) The board shall give notice of the bond election, stating the amount of bonds to be issued. The board shall post a copy of the notice in four public places in the district, including a copy at the courthouse door. The board shall have the notice posted during the 20-day period immediately preceding the day of the election.

(b) The board shall have printed on the notice:

(1) the proposition to be voted on; and

(2) an estimate of the probable cost of constructing or purchasing the proposed improvement and the incidental expenses connected with the construction or purchase. (R.S. Art. 7932.)

§ 53.174. Conduct of Bond Election

The board shall select polling places in the district and shall appoint a presiding judge, one other judge, and two clerks for each polling place.

The board shall provide the necessary ballots for the election and shall have printed on them the proposition to be submitted. (R.S. Art. 7933.)

§ 53.175. Canvassing Bond Election Results

Immediately after the election, the presiding judge of each polling place shall return the result in the same manner as results are returned in general elections for state and county officers. The judge shall return the result to the board, which shall, at a regular or special session, canvass the vote. If a majority of the votes favor issuing bonds and levying taxes, the board shall declare the result and enter it in the minutes. (R.S. Art. 7935.)

§ 53.176. Issuing Bonds

(a) After declaring the result of the election, the board shall make and enter an order in the minutes directing the issuing of bonds sufficient to pay for the proposed improvements. The board may not issue bonds in an amount greater than that specified in the order and notice of election.

(b) Subchapter L, of Chapter 55 of this code, providing for the issuing, denominations, rate of interest, manner and conditions of payment, and maturity dates of water improvement district bonds, apply to bonds of a fresh water supply district. (R.S. Art. 7936.)

§ 53.177. Approving Bonds

(a) Before the board offers bonds for sale, it shall send to the attorney general a certified copy of all proceedings relating to organizing the district and issuing the bonds. They shall also provide other relevant information he requires.

(b) The attorney general shall carefully examine the bonds in connection with the record and the constitution and laws of this state governing the issuance of bonds. The attorney general shall certify the bonds if he finds that they conform to the record and the constitution and laws of this state and that they are valid and binding obligations of the district. (R.S. Art. 7937.)

§ 53.178. Registering Bonds

When the attorney general approves the bonds, the comptroller shall register them in a book kept for that purpose. The comptroller shall record the certificate of the attorney general as to the bonds' validity. The bonds are then prima facie valid in any action, suit, or proceeding. In a suit to enforce collection of the bonds and interest on the bonds, the only defense against the validity of the bonds is forgery or fraud. (R.S. Art. 7938.)

§ 53.179. Selling Bonds

After the bonds are registered, the board shall sell them on the best terms and for the best price possible. The board shall promptly pay to the district depository the money received from the sale of the bonds. The district depository shall hold the money for the district. (R.S. Art. 7939.)

§ 53.180. Recording of Bond Issues

(a) After the bonds are issued, the board shall deliver a well-bound book to the county treasurer, who shall keep in the book a list of:

- (1) all bonds which have been issued;
- (2) their manner of payment;
- (3) the amount of each bond;
- (4) the rate of interest on each bond;
- (5) the date of issuing each bond;
- (6) the date when each bond is due;
- (7) the place where each bond is payable;
- (8) the amount received for each bond; and
- (9) the tax levy to pay interest on and redeem the bonds.

(b) The county treasurer shall keep the books open at all times for inspection by any taxpayer or bondholder. When a person pays for a bond, the treasurer shall enter the payment in the book. The treasurer is entitled to receive for his services the same fee allowed by law to the county clerk for recording deeds. (R.S. Art. 7941.)

§ 53.181. Paying Bonds and Interest

At the time for paying interest or for redeeming the bonds, the district depository shall receive and cancel any interest coupons paid or any bonds redeemed. When the board receives an interest coupon or a bond, it shall credit the account of the depository with the amount received. The board shall then cancel and destroy the bond or coupon. (R.S. Art. 7940.)

§ 53.182. Bonds Payable From Revenues and Ad Valorem Taxes

(a) For the purpose of constructing, purchasing, repairing, improving, and extending authorized improvements, a district may issue bonds payable solely from the revenues of:

- (1) the operation of the district's water system, less the reasonable cost of maintaining and operating the system; or
- (2) the operation of the district's sanitary sewer system, less the reasonable cost of maintaining and operating the system; or (New.)
- (3) both the water system and the sanitary sewer system. (New.)

(b) The district may also issue bonds for the purposes set out in this section, payable both from ad valorem taxes and the revenues of:

- (1) its water system; or
- (2) its sanitary sewer system; or (New.)
- (3) both its water system and sanitary sewer system. (New.)

(c) If the district issues combination tax and revenue bonds, it shall levy, assess, and collect ad valorem taxes until the net revenues from the operation of the water system or the sanitary sewer system, together with the revenue from taxes, have accumulated a surplus in the sinking fund at least equal to the principal of and interest on the bonds scheduled to accrue in the next year. When this accumulation is completed, the board may reduce the tax levy to a rate that will produce at least 25 percent of the principal and interest requirements for each of the next succeeding years. When actual experience of three successive years demonstrates that the net revenues are adequate to pay the principal of and the interest on the bonds as they mature, the board may discontinue the tax until it becomes necessary to levy the tax again to avoid default in paying the bonds and interest. (52nd Legis., Ch. 233, Sec. 1, sen. 1, 2, 3.)

§ 53.183. Election Required

(a) A district may not issue bonds as authorized in Section 53.182 of this code unless an election is first held in the district and the proposition is approved by a majority of the electors of the district who vote in the election.

(b) If the election is held to authorize revenue bonds only, the board shall have the ballots printed to allow for voting for or against the proposition: "The issuance of bonds and the pledge of net revenues for the payment of the bonds."

(c) If the election is held to authorize combination tax and revenue bonds, the board shall have the ballots printed to allow for voting for or against the proposition: "The issuance of bonds to be paid for from an adequate pledge of net revenues and levy of ad valorem taxes."

(d) Except as provided in this section, the provisions of Sections 53.172-53.175 of this code, relating to tax bond elections, apply to elections held under this section. (52nd Legis., Ch. 233, Sec. 1, sen. 4, 5, 6.)

§ 53.184. Refunding Bonds

(a) With the consent of the holders, a district may refund outstanding bonds by issuing new coupon bonds in their place.

(b) Interest is shown by coupons attached to the bonds. The board may pay the interest on the bonds annually or semiannually.

(c) The board may pay the refunding bonds serially or in any other manner it chooses, but it shall pay the bonds not later than 40 years from the date the bonds are issued.

(d) The board shall issue the bonds in denominations of \$100 or a multiple of \$100. The board shall levy a tax sufficient to meet the payment of principal of and interest on the refunding bonds before the bonds are delivered. The refunding of bonds does not affect any taxes already due.

(e) The board shall issue refunding bonds in the manner provided for other district bonds. The board shall deduct any sum on hand to the credit of any sinking fund account in ascertaining the amount of refunding bonds to be issued, and it shall apply the money to the payment of the outstanding bonds.

(f) The board shall not issue refunding bonds until they are approved by the attorney general and registered by the comptroller. The comptroller shall not register the refunding bonds until the old bonds being replaced are presented to him for cancellation. After the comptroller registers the new bonds, he shall cancel the old bonds and interest coupons and deliver the new bonds to the proper bondholders. The district may present the old bonds for cancellation in installments, and the comptroller may register and deliver a like amount of the new bonds. (R.S. Art. 7941a, as amended.)

§ 53.185. Rates and Charges

If the board issues revenue bonds or combination tax and revenue bonds, the board, at the time it authorizes the bonds, shall fix rates and charges for the use of the facilities or the services rendered in an amount which, together with any tax which is levied, will assure the prompt payment of the principal of and interest on the bonds as they mature. (52nd Legis., Ch. 233, Sec. 1, sen. 7.)

§ 53.186. Interest and Sinking Fund

(a) A district shall have an interest and sinking fund. The board shall credit to this fund all taxes collected for the payment of interest or redemption of district bonds.

(b) The board shall use money in this fund only:

- (1) to pay interest on district bonds;
 - (2) to cancel and surrender district bonds; and
 - (3) to pay the expenses of assessing and collecting the taxes.
- (R.S. Art. 7953.)

§ 53.187. Investment of Sinking Fund

The board may invest the district's sinking funds in county, municipal, district, or other bonds in which other sinking funds may by law be invested. The board may also invest the sinking funds in bonds of the series to which the funds apply, if the bonds are offered for redemption before maturity on terms the board deems advantageous to the district. (R.S. Art. 7954.)

§ 53.188. Levy of Taxes

After the district has issued bonds, the board shall levy taxes on all property in the district, whether real, personal, or mixed. The board shall levy the taxes based on the full value of each piece of property. The board shall levy the taxes in an amount which is enough to pay the interest on the bonds and to create a sinking fund sufficient to redeem and discharge the bonds when they mature. The board shall levy taxes annually for this purpose as long as the bonds are outstanding. (R.S. Art. 7952.)

§ 53.189. Assessor and Collector—Office

The assessor and collector shall maintain an office. (R.S. Art. 7942 (part).)

§ 53.190. Subject to Rules of Board

The assessor and collector is subject to the rules and regulations of the board in the same manner as provided by law for assessors and collectors of water improvement districts. (R.S. Art. 7942 (part).)

§ 53.191. Duties—In General

In addition to the other duties imposed by this chapter, the assessor and collector shall:

- (1) return to the board of equalization a list of all persons who refuse to sign the oath for tax assessment;
- (2) make up and return the assessment rolls and keep bound records of the rolls;
- (3) collect all taxes and deposit them weekly in the district depository;
- (4) file once a week with the district secretary a statement of all money collected;
- (5) keep an account of all money collected;
- (6) make a monthly report of collections; and
- (7) use a duplicate receipt book, give a receipt for each collection, and retain a copy in the book which he shall preserve as a district record. (R.S. Arts. 7942, 7943.)

§ 53.192. Assessor's Accounts

The board shall charge the assessor and collector with the total assessment as shown by the assessment rolls. For this purpose, the board shall use a permanent finance ledger. The board shall give the assessor and collector credit for all money he pays to the depository as shown by his monthly reports. After the final annual settlement, the assessor and collector shall make a complete report of all taxes that have not been collected. The board shall audit the report and give proper credits to the assessor and collector. The board shall make the annual settlement on the first Monday in May of each year. (R.S. Art. 7944.)

§ 53.193. Rendering Property for Taxation

Each person, partnership, or corporation that owns taxable property in the district shall render the property for taxation to the tax assessor and collector when called on to do so. If he is not called on to do so, he shall render his property for taxation on or before June 1 of each year. (R.S. Art. 7947.)

§ 53.194. Assessment of Taxes

(a) Immediately after the district votes a bond issue, the tax assessor and collector shall assess all taxable property, whether real, personal, or mixed, in the district. He shall assess all property annually.

(b) The tax assessor and collector shall make the assessment on forms provided by the board and on each form he shall record:

(1) the property owner's sworn statement listing all property which he owns in the district and which is subject to state and county taxation; and

(2) the full value of the property.

(c) The assessor and collector shall make a list of all property which is not rendered for taxation in the district and which is subject to state and county taxation.

(d) The assessor and collector has authority to administer oaths to carry out fully the provisions of this section. (R.S. Art. 7945.)

§ 53.195. Date of Tax Assessment

The tax assessor and collector shall assess taxes for the district on January 1 of each year. He shall complete the assessment and have the lists and books ready to deliver on or before June 1. (R.S. Art. 7946.)

§ 53.196. Appraisal Dates

The board of equalization shall, after the first year, meet annually on the first Monday in June to receive all assessment lists or books of the assessor and collector. The board shall complete its examination and equalization of the lists by the second Monday in June. The board shall deliver the rolls to the assessor and collector by the second Monday in July. The assessor and collector shall complete the rolls, and the board shall approve the rolls and return them to the assessor and collector, by the first Monday in September. (R.S. Art. 7951.)

§ 53.197. Maintenance Tax Election

(a) If the board considers it necessary to levy a maintenance tax, it shall call an election in the district.

(b) The board shall have printed on the ballot the proposition for or against the tax and the amount of the proposed tax, which may be either a fixed rate or a maximum rate.

(c) Except as provided in this section, the provisions of Sections 53.172–53.175 of this code, relating to tax bond elections, apply to elections held under this section. (R.S. Art. 7955.)

§ 53.198. Levy of Maintenance Tax

(a) After the district has voted a maintenance tax, the board shall levy the tax and have it assessed and collected as are other taxes. The board may not levy a tax in an amount which is more than the specific sum voted.

(b) The board shall use the revenue from the maintenance tax only:
(1) to maintain, repair, and make additions to the district improvements; and
(2) to pay for other lawful expenses of the district.

(c) The board may levy maintenance taxes until the power is taken away by another district election. The board may hold an election on the question of repeal or reduction of maintenance taxes no more often than once every five years. The board may refrain from levying maintenance taxes if they are not necessary. (R.S. Art. 7956.)

§ 53.199. Tax Collection Dates

All taxes are due and payable on October 1 of each year. The district taxpayers shall pay the taxes before February 1 of the next year. (R.S. Art. 7958.)

§ 53.200. Delinquent Taxes

All the provisions of Subchapter M of Chapter 55 of this code relating to the lien, penalties, interest and costs, preparation and publication of the delinquent tax roll, suit for collection and foreclosure proceedings, attorney's fees, and officers' fees in proceedings for collecting delinquent taxes, and relating to redemption of lands before sale, apply to collecting delinquent taxes in a fresh water supply district. (R.S. Art. 7959.)

[Sections 53.201–53.230 reserved for expansion]

SUBCHAPTER G. ADDING AND EXCLUDING TERRITORY

Section 53.231. Excluding Land from District

The board, by resolution, may exclude territory from the district to the extent of at least 10 acres contiguous and adjoining the boundaries of the district. The board may exclude land by resolution only before the district has issued and sold any bonds and before the district has levied any taxes. (45th Legis., Ch. 385, Sec. 1 (part).)

§ 53.232. Procedure

The resolution is effective only after:

- (1) notice is published as prescribed by Section 53.233 of this code; or
- (2) the resolution is confirmed at an election ordered under Section 53.235 of this code. (45th Legis., Ch. 385, Sec. 1(a) (part).)

§ 53.233. Publication of Notice

(a) The board shall have the notice of intention to adopt the resolution published once a week for two consecutive weeks in a newspaper of general circulation in the county. It shall have the first notice published before the beginning of the 14-day period immediately preceding the day of the meeting at which the resolution is to be finally passed. (45th Legis., Ch. 385, Sec. 1(b) (part).)

(b) The board shall state in the notice the date set for the meeting and shall include in the notice a copy of the proposed resolution containing a description by metes and bounds of the land proposed to be excluded. (45th Legis., Ch. 385, Sec. 1(a) (part).)

§ 53.234. Petition for Election

At any time before the date set for the meeting, 10 or a majority of the qualified electors of the district who own land in the district may file a petition with the president or secretary of the board, requesting an election on the proposition to exclude the territory. (45th Legis., Ch. 385, Sec. 1(b) (part).)

§ 53.235. Order of Election

When the petition is filed, the board shall order an election on the proposition. (45th Legis., Ch. 385, Sec. 1(b) (part).)

§ 53.236. Final Passage of Resolution

(a) If no petition is filed, no election on the proposition is required. The board may finally pass and adopt the resolution to exclude the territory from the district. The board shall have a copy of the resolution, signed by a majority of the supervisors and duly attested by the secretary of the board, recorded in the deed records of the county in which the district is located.

(b) The resolution takes effect when it is properly recorded. (45th Legis., Ch. 385, Sec. 1(b) (part).)

§ 53.237. Cancellation of Previously Issued Bonds

If a district has authorized the issuance of bonds, and the bonds have not been sold or put into circulation, and the district has levied no tax to pay the principal of and interest on the bonds, the district, by excluding any territory, cancels this authorized bonded indebtedness. (45th Legis., Ch. 385, Sec. 1(c).)

§ 53.238. Redefining District Boundaries

(a) The board, within a reasonable time after excluding territory from the district, shall adopt a resolution redefining the boundaries of the district to reflect the exclusion of the territory.

(b) When the board has passed the resolution, the secretary of the district shall enter and record the resolution in the minutes or records of the board. The board shall file a certified copy of the resolution in the office of the county clerk of the county in which the district is located. The board shall also have a certified copy recorded in the deed records of the county. (45th Legis., Ch. 385, Sec. 1(d).)

§ 53.239. Adding Territory to District

A district may annex territory not already included in a fresh water supply district by following the procedure described in this subchapter. (45th Legis., Ch. 385, Sec. 2, sen. 1 (part).)

§ 53.240. Annexation Petition

(a) A person may present a petition to the secretary of the board, requesting that the district annex the described area.

(b) The petition must be signed by a majority of the persons who own land in the described area; but if more than 50 persons own land in the area, the petition must be signed by at least 50 of them. (45th Legis., Ch. 385, Sec. 2, sen. 1 (part).)

§ 53.241. Time and Place of Hearing

The board by order shall set the time and place of the hearing on the petition. The board may not hold the hearing before the expiration of the 30th day after the day of the order. (45th Legis., Ch. 385, Sec. 2, sen. 2, 3.)

§ 53.242. Notice of Annexation Hearing

The secretary shall issue notice of the time and place of hearing. In the notice, he shall describe the territory proposed to be annexed. The secretary shall post copies of the notice in three public places in the territory proposed to be annexed. He shall post the notices for at least the 15 days immediately preceding the day of the hearing. He shall also publish the notice once in a newspaper of general circulation in the county before the beginning of the 15-day period immediately preceding the day of the hearing. (45th Legis., Ch. 385, Sec. 2, sen. 4, 5, 6.)

§ 53.243. Resolution to Add Territory

(a) The board may by resolution add the territory to the district if, on hearing the petition, they find that:

(1) the proposed addition of territory to the district is feasible and practicable; and

(2) the addition would be of benefit both to the territory and to the district.

(b) The board need not include all of the land described in the petition if it finds that a modification or change is necessary or desirable.

(c) The board shall have a copy of the resolution, signed by a majority of the supervisors and attested by the secretary of the board, recorded in the deed records of the county.

(d) The resolution takes effect when it is properly recorded. (45th Legis., Ch. 385, Sec. 2, sen. 7, 8.)

§ 53.244. Apportionment of District Indebtedness

The added territory shall bear its pro rata part of the indebtedness or taxes that are owed, contracted, or authorized by the district to which the new territory has been added. Before the added territory is subject to any part of the district indebtedness or taxes, however, the board shall order an election in the district, as enlarged, on the question of the assumption of the indebtedness or taxes by the district as enlarged. (45th Legis., Ch. 385, Sec. 2, sen. 9.)

§ 53.245. Conduct of Elections

An election held either to confirm the exclusion of territory or to assume indebtedness or taxes is to be held as are elections for issuing bonds by the district. (45th Legis., Ch. 385, Sec. 3.)

§ 53.246. Excluding Land inside Cities or Towns

(a) The board of supervisors of a district located entirely in one county may exclude from the district land which is inside the boundaries of a city or town if:

(1) the district, when created, did not include inside its boundaries any land which was inside the corporate limits of the city or town;

(2) the district has inside its boundaries land which has been annexed by a city or town since the district was created;

(3) the city or town provides to the annexed land the same services as the district may provide to it;

(4) the population of the city or town is more than 4,000, according to the last preceding federal census;

(5) the city or town has not adopted a home-rule charter; and

(6) the area to be excluded has a part of its boundary identical with a part of the boundary of the district as it exists at the time of the exclusion.

(b) Under this section, the board shall not at any time reduce the size of the district to an area less than 90 percent of the area it encompassed at the time of its creation. (R.S. Art. 7930—3, Sec. 1.)

§ 53.247. Meeting to Determine Exclusion

The board, by three-fifths vote, may call a meeting of the board to determine whether or not the district shall exclude any land from the district. The board shall call a meeting for this purpose if five percent of the qualified property taxpaying electors of the district petition them to do so. (R.S. Art. 7930—3, Sec. 2, sen. 1 (part).)

§ 53.248. Requirements of Petition

The petitioners, in their petition, shall describe the proposed new boundaries of the district. They shall state also that it is proposed that all the land inside the boundaries of the district not included inside the proposed new boundaries be excluded from the district. (R.S. Art. 7930—3, Sec. 2, sen. 1 (part).)

§ 53.249. Notice of the Meeting

(a) The board, in the notice of the meeting, shall state:

(1) the proposed new boundaries of the district;

(2) the proposal to exclude all land outside the proposed new boundaries;

(3) the time and place of the meeting; and

(4) the right of any landowner of the district to appear at the meeting and to be heard in support of or in opposition to establishing the new boundaries and excluding the land proposed to be excluded.

(b) The board shall address the notice to "All landowners and taxpayers of _____ County Fresh Water Supply District No. _____ (inserting the name and number of the district) and all other persons concerned." (R.S. Art. 7930—3, Sec. 2, sen. 2.)

§ 53.250. Posting of Notice

The board shall post a certified copy of the notice in three public places inside the district. The board shall also have the notice published one time before the beginning of the 10-day period immediately preceding the day of the meeting, in a newspaper of general circulation in the district. If there is no newspaper of general circulation in the district, the board shall have the notice printed in a newspaper of general circulation in the county where the district is located. (R.S. Art. 7930—3, Sec. 2, sen. 3.)

§ 53.251. Power to Adjourn Meeting

The board may adjourn the meeting from time to time in their discretion. (R.S. Art. 7930—3, Sec. 2, sen. 4.)

§ 53.252. Excluding Land by Resolution or Election

(a) The board may, at its discretion, either call an election on the question of whether or not to exclude the land from the district, or, by resolution, declare the land excluded from the district, if:

(1) no district landowner has filed, by the time of the meeting, a written protest against excluding the land from the district;

(2) no district landowner protests the exclusion at the meeting;

or

(3) the protests, if any, represent less than three percent of the total superficial area of the district.

(b) If the board, by resolution, declares that the land is excluded, it shall state in the resolution the new boundaries of the district. The board shall file a copy of the resolution, signed by a majority of the supervisors and duly attested by the secretary, in the office of the county clerk. The county clerk shall record the resolution in the deed records of the county in which the district is located. After the resolution is recorded, the land excluded is no longer a part of the district. (R.S. Art. 7930—3, Sec. 3.)

§ 53.253. Protest

If a written protest is filed with the board before the meeting or if a protest is made at the meeting by a district landowner, the board shall pass on the protest after hearing the evidence. (R.S. Art. 7930—3, Sec. 4 (part).)

§ 53.254. Election Required by Protests

(a) If the owner or owners of as much as three percent of the district land protest the exclusion, the board shall call an election to decide whether or not the proposed land shall be excluded.

(b) Except as provided in this subchapter, the provisions of Sections 53.022–53.028 of this code apply, to the extent they are applicable, to elections held under this section. The board shall perform the duties imposed on the commissioners court by those sections. (R.S. Art. 7930—3, Sec. 4 (part).)

§ 53.255. Notice of Election to Exclude Land

(a) The board shall post a notice of the election stating

(1) the time and place for holding the election;

(2) the proposed new boundaries of the district;

- (3) the proposition to be voted on; and
 - (4) the names of the presiding officers appointed by the board to hold the election.
- (b) The board shall post a copy of the notice in four public places in the district and a copy at the courthouse door for the 20 days immediately preceding the date of the election. (R.S. Art. 7930—3, Sec. 5.)

§ 53.256. Ballots

The board shall provide the necessary ballots for the election and shall have the ballots printed to allow for voting for or against the proposition:

"The establishment of the new boundaries of the _____ County Fresh Water Supply District No. _____ (inserting the name of the district)." (R.S. Art. 7930—3, Sec. 6.)

§ 53.257. Order Excluding Land

If the election favors establishing the new boundaries, the board shall enter an order declaring the result of the election. The board shall enter the order in its minutes, declaring that the land which has been excluded is no longer a part of the district. In the order the board shall also describe the new boundaries. The board shall file a copy of the order, signed by a majority of the board and duly attested by the secretary, in the office of the county clerk. The county clerk shall record the copy in the deed records of the county in which the district is located and the land shall cease to be a part of the district. (R.S. Art. 7930—3, Sec. 8 (part).)

§ 53.258. If Proposition Defeated

If the proposition to exclude the land is defeated, the board may not act on a petition to exclude all or any part of the land voted on within one year of the election. (R.S. Art. 7930—3, Sec. 9.)

§ 53.259. Rights of Bondholders

No proceeding under this subchapter diminishes or impairs the rights of the holders of any outstanding and unpaid bonds, warrants, or other certificates of indebtedness of a district. (R.S. Art. 7930—3, Sec. 10, sen. 1 (part).)

§ 53.260. Apportionment of District Indebtedness

(a) Each property owner in the excluded territory shall pay as his proportional share of each series of district indebtedness a sum equal to the percentage of the "net indebtedness" which the assessed value of his excluded property bears to the total assessed value of all property in the district before the exclusion. For each series of indebtedness, all property values are to be taken from the tax rolls of the district for the year in which the series of indebtedness was issued and sold.

(b) In Subsection (a) of this section, the phrase "net indebtedness" means the greater of:

- (1) the face value (par value plus accrued interest) of the outstanding bonds or warrants in the series at the time of the exclusion, less the sinking funds, reserves, and deposits held for paying the indebtedness; and

(2) the market value of the outstanding bonds or warrants in the series at the time of the exclusion, less the sinking funds, reserves, and deposits held for paying the indebtedness. (R.S. Art. 7930—3, Sec. 10, sen. 1 (part).)

§ 53.261. Resolution Establishing Apportionment

(a) When the board adopts the resolution or enters the order excluding land, it shall determine the proportional share of district indebtedness chargeable to the excluded land. The board shall adopt in its records a resolution establishing the proportional share. When the board determines and establishes the amount, it is binding on all persons and property in both the excluded and the remaining areas of the district. (R.S. Art. 7930—3, Sec. 10, sen. 2.)

(b) The board shall charge the property remaining inside the district with the remaining district indebtedness. The property owners of the newly defined district shall pay the remaining indebtedness by annual taxes. (R.S. Art. 7930—3, Sec. 10, sen. 3.)

§ 53.262. Current Taxes—Lien

(a) The owners of the property in the excluded land shall pay the taxes levied against their property by the district for the year in which the land was excluded. Until paid, these taxes are a lien against the property excluded from the district as though the land had not been excluded.

(b) The board shall credit the amount collected against the total amount which the owners of the excluded land owe. The board may not levy additional taxes or other charges against the excluded land for the year in which the exclusion is made. (R.S. Art. 7930—3, Sec. 10, sen. 4.)

§ 53.263. Annual Levy of Taxes against Excluded Territory

(a) The district shall levy and collect taxes against the property in the excluded territory on the same basis as the district levies and collects taxes annually against the property remaining inside the district, until the amount collected equals the total net amount chargeable against the excluded territory.

(b) The district may lower the rates on the taxes and charges assessed against the property in the excluded territory for the last year during which the assessments are made, in order to obtain only enough money to discharge the balance of the sum chargeable against the excluded territory.

(c) The district shall continue to levy taxes against the land in the excluded territory each year until enough taxes have been levied to cover the excluded territory's pro rata share of the district's indebtedness. (R.S. Art. 7930—3, Sec. 10, sen. 9.)

§ 53.264. Voluntary Payments

A municipality authorized to do so, and any person, firm, or corporation desiring to do so may voluntarily pay to the district at any time any amount toward the discharge of the amount chargeable against the property in the excluded territory. The district shall credit all voluntary payments as a reduction of the amount charged against the excluded territory. (R.S. Art. 7930—3, Sec. 10, sen. 8.)

§ 53.265. Status of Delinquent Taxes

All taxes against land in the excluded territory which are delinquent at the time of exclusion or which become delinquent after the exclusion have the same status they would have had if the district had not excluded the land. The district has and may exercise all of the liens, rights, and remedies it would have had against the persons and property against which the taxes were assessed if the district had not excluded the territory. (R.S. Art. 7930—3, Sec. 10, sen. 5.)

§ 53.266. Collection of Delinquent Taxes

The principal of all delinquent taxes which were levied against excluded territory after the exclusion, and which are collected before final payment of the indebtedness charged to the territory, shall be credited against that indebtedness as if the taxes had been collected when due. The district shall enforce and collect all taxes remaining delinquent after the collection of all charges provided for in this subchapter. (R.S. Art. 7930—3, Sec. 10, sen. 6, 7.)

§ 53.267. Penalties and Interest

Taxes and charges provided for in this subchapter are subject to the same penalties and interest as are other taxes which the district levies. The district has the rights and remedies concerning these taxes which it has concerning other taxes. (R.S. Art. 7930—3, Sec. 10, sen. 10.)

§ 53.268. Discharge of Excluded Land From Obligations

On payment of its pro rata share of the district indebtedness except for delinquent taxes against specific pieces of property, the excluded territory is released from all liability to the district except the liability on each piece of property for payment of the delinquent taxes. (R.S. Art. 7930—3, Sec. 11, sen. 1 (part).)

§ 53.269. Resolution of Discharge

(a) When the liability of the excluded territory is discharged, except for delinquent taxes, the board shall adopt a resolution stating this fact and listing the property on which the taxes are unpaid. In the list the supervisors shall give a brief description of the property, the name of the owner, and the amount of the principal sum owed for each year there is a delinquency.

(b) The supervisors shall have the resolution entered in their minutes and recorded in the deed records of the county. (R.S. Art. 7930—3, Sec. 11, sen. 1 (part).)

§ 53.270. Release on Payment of Delinquent Taxes

When a property owner pays the delinquent taxes against property listed in the resolution, it is discharged from all obligations to the district. The release is established by a certificate of the tax assessor and collector of the district certifying that the property owner has paid the delinquent taxes against the property. (R.S. Art. 7930—3, Sec. 11, sen. 2.)

§ 53.271. Rights after Exclusion

The property owners of the excluded territory have no right, title, or interest in the district property after the land is excluded. (R.S. Art. 7930—3, Sec. 14.)

§ 53.272. Debts Incurred after Exclusion

No property or property owner in the excluded territory is liable for the payment of any bonds, warrants, or other indebtedness issued or incurred by the district after the territory is excluded. (R.S. Art. 7930—3, Sec. 13.)

§ 53.273. Findings of Fact by the Supervisors

The board's findings of fact relating to the excluded territory are prima facie valid if they are entered in the minutes. The findings are not contestable except in a direct attack instituted in a court of competent jurisdiction within the time and in the manner provided by law for election contests. (R.S. Art. 7930—3, Sec. 12.)

CHAPTER 55. WATER IMPROVEMENT DISTRICTS

SUBCHAPTER A. GENERAL PROVISIONS

Section 55.001. Definitions

In this chapter:

- (1) "District" means a water improvement district created under this chapter.
- (2) "Board" means the board of directors of a water improvement district. (New.)
- (3) "Commission" means the Texas Water Rights Commission. (New.)

[Sections 55.002–55.020 reserved for expansion]

**SUBCHAPTER B. CREATION OF DISTRICT; CONVERSION
TO ARTICLE XVI, SECTION 59, DISTRICT**

Section 55.021. Creation of District

A water improvement district may be created in the manner prescribed by this subchapter, either under and subject to the limitations of Article III, Section 52, of the Texas Constitution, or under Article XVI, Section 59, of the Texas Constitution. (R.S. Art. 7625, sen. 5; Art. 8194.)

§ 55.022. District Wholly Within One County

The commissioners court of a county, at any regular or called session, may create one or more water improvement districts in the county as provided by this subchapter. (R.S. Art. 7622, sen. 1, as amended.)

§ 55.023. District May Include Cities, Towns, Etc.

A district may include all or part of one or more cities, towns, villages, and municipal corporations, but no land may be included in more than one district at any one time. (R.S. Art. 7622, sen. 2, as amended.)

§ 55.024. Petition

(a) A petition requesting creation of a district may be presented to the commissioners court. The petition must be signed by a majority of the persons who hold title to land in the proposed district, representing a to-

tal value of more than 50 percent of the value of all the land in the proposed district as indicated by the county tax rolls. However, if there are more than 50 persons holding title to land in the proposed district, the petition is sufficient if signed by 50 of them. The petition must set out the boundaries of the district and designate a name for the district. (R.S. Art. 7623, sen. 1, 2 (part).)

(b) The petition may be signed and presented to the commissioners court in several copies. In this case the county clerk shall make a certified copy of the petition, including a list of the names of all signers, and shall file the certified copy and the original copies. The certified copy of the petition shall be considered the petition in all proceedings under this chapter. (R.S. Art. 7625, sen. 2, 3, 4.)

§ 55.025. Date Set for Hearing

The commissioners court shall set a date for a hearing on the petition, to be held at a regular or special session not less than 15 days nor more than 40 days after the day the petition is presented. (R.S. Art. 7623, sen. 2 (part).)

§ 55.026. Notice of Hearing

(a) The county clerk shall issue a notice of the hearing directed to the sheriff giving the date and place of the hearing, and a copy of the order of the court setting the hearing. The sheriff shall serve the notice in the manner provided by law. (R.S. Art. 7623, sen. 3, 4.)

(b) The sheriff shall post copies of the notice in three public places in the proposed district, and shall post one copy at the courthouse door or on the bulletin board used for public notices. These notices shall be posted for 10 full days before the date of the hearing. The notice shall also be published once in a newspaper of general circulation in the county, if a newspaper is published in the county, at least five days before the date of the hearing. The sheriff shall make return of a true copy of the notice, showing the times and places of posting and publication. The county clerk shall record the return in the minutes of the court. (R.S. Art. 7624.)

(c) Any person interested may inspect the boundaries of the district as set out in the petition, and any person may inspect the petition in the office of the county clerk. (R.S. Art. 7623, sen. 5.)

§ 55.027. Hearing

(a) At the hearing, any person whose land is included in and would be affected by the district may support or oppose creation of the district and may offer testimony to show that the district is or is not necessary, would or would not be of public utility, or would or would not be feasible or practicable.

(b) Except as otherwise provided by this chapter, the commissioners court has exclusive jurisdiction to hear and determine all contests and objections to creation of the district and all other matters pertaining to creation of the district.

(c) The commissioners court may adjourn the hearing from day to day.

(d) The judgment rendered by the commissioners court is final, except as otherwise provided by this chapter. (R.S. Art. 7626.)

§ 55.028. Findings; Order

The commissioners court shall make and enter its findings in the record. If it finds that creation of the district and the construction or purchase of the proposed irrigation system, or cooperation with the United States as provided by Section 55.161 of this code, is feasible, practicable, and necessary, and would be a public benefit and a benefit to the land included in the district, then the court shall make and enter an order granting the petition and directing that an election be held in the proposed district. Otherwise, the court shall dismiss the petition at the cost of the petitioners. (R.S. Art. 7627; Art. 7629 (part).)

§ 55.029. Appeal

(a) Any petitioner or any landowner in the district aggrieved by the order of the commissioners court may appeal the order to the district court. Notice of appeal must be filed with the commissioners court at the time of the hearing, and an appeal bond must be filed with the county clerk within 10 days after the day notice of appeal is given. At the time notice of appeal is given, the commissioners court shall fix the amount of the appeal bond at not less than \$2,000 nor more than \$5,000; and the bond shall be made payable to the county judge for the benefit of adverse parties.

(b) Except as otherwise provided by this section, the appeal shall be tried de novo under the rules prescribed for practice in the district court and shall be de novo.

(c) The county clerk shall transfer to the district clerk the judgment and all records filed in the commissioners court within 10 days after the day the appeal bond is filed, and no other pleadings need be filed.

(d) The final judgment on appeal shall be certified to the commissioners court for its action within 10 days after the day the judgment becomes final. (R.S. Art. 7628.)

§ 55.030. Notice of Election

(a) After the election is ordered, notices of the election shall be posted at four places in the proposed district, and one shall be posted at the courthouse door, for the 20 days preceding the date of the election.

(b) The notice of the election shall state the time and places the election will be held, the boundaries of the proposed district, the presiding officers appointed to hold the election, the propositions to be voted on, and the offices to be filled at the election. (R.S. Art. 7630.)

§ 55.031. Voting Precincts

(a) The commissioners court, at the time it orders the election, shall order creation of one or more election precincts in the district and shall designate polling places in each precinct. (R.S. Art. 7631, sen. 3 (part), as amended.)

(b) The election precincts created under this section shall remain the election precincts of the district until changed by an order of its board. (R.S. Art. 7632.)

§ 55.032. Election Officials

The commissioners court shall appoint two judges and two clerks for each polling place, and designate one of the judges to be presiding judge.

If an officer fails to serve, his place shall be filled in the manner provided by the general election law. (R.S. Art. 7631, sen. 3 (part), 4, as amended.)

§ 55.033. Ballots

The ballot for the election shall have printed on it only the following:

- (1) the heading, "Official Ballot";
- (2) the proposition, "(FOR) (AGAINST) Creation of the water improvement district";
- (3) the proposition, "(FOR) (AGAINST) Issuance of notes by the water improvement district"; and
- (4) five blank lines for writing in the names of persons for the office of director, under the heading, "FOR DIRECTORS, FIVE TO BE ELECTED." (R.S. Art. 7631, sen. 5, 6, 7, as amended.)

§ 55.034. Conduct of Election

Except as otherwise provided by this subchapter, the election shall be conducted as provided by the general election law. (R.S. Art. 7631, sen. 1, as amended.)

§ 55.035. Returns; Canvass

The officers of the election shall return the result of the election for each polling place, and the commissioners court shall canvass the returns. (R.S. Art. 7634, sen. 1, as amended.)

§ 55.036. Order; Creation of District

The commissioners court shall enter an order declaring the results of the election. If a majority of the votes favor creation of the district, the court shall enter an appropriate order declaring the district to be created and describing its boundaries by metes and bounds. (R.S. Art. 7634, sen. 2, as amended; Art. 7635, sen. 1, 2.)

§ 55.037. Directors

The commissioners court shall declare the five persons receiving the most votes to be elected directors. If not all five positions can be determined because of a tie vote, the commissioners court shall fill the necessary positions by selecting among the tying candidates. (R.S. Art. 7634, sen. 6, as amended.)

§ 55.038. Issuance of Notes

(a) If the proposition to issue notes carries, the board of directors shall issue notes of the district, in an amount not to exceed four percent of the cost of the proposed improvements, for the purpose of creating a fund to pay the cost of organizing the district and the cost of all surveys, investigations, engineering, issuance of bonds, making and filing of maps and reports, legal expenses, and all other costs and expenses authorized or made necessary by the provisions of this chapter. The board shall sell the notes or exchange them in payment of the costs and expenses.

(b) The notes shall be secured by the levy, assessment, and collection of taxes as provided for payment of bonds. The notes shall be paid out of the proceeds of the district's bonds when they are issued and sold. If the bond election fails to carry, then the notes shall be paid out of the tax revenue. (R.S. Art. 7634, sen. 3, 4, 5, as amended.)

§ 55.039. Recordation of Order

After the commissioners court makes and enters in its minutes the order creating the district or an order changing the name of a district, the court shall file a certified copy of the order with the county clerk, who shall have it recorded and indexed in the deed records of the county. Recordation of the order has the same effect, as to notice, as the recordation of a deed. The district shall pay the cost of making and recording copies of the order. (R.S. Art. 7638.)

§ 55.040. Multi-county District: Petition

Creation of a district composed of land in two or more counties may be initiated by presenting a petition to the Texas Water Rights Commission signed by the owners of more than half the land in the proposed district or by 50 qualified property taxpaying electors of the territory of the proposed district. The petition shall describe the boundaries of the proposed district, request a hearing to determine the advisability of creating the district, and request an order for an election. (39th Legis., Ch. 205, Sec. 2, sen. 1.)

§ 55.041. Multi-county District: Notice of Hearing

On the filing of the petition, the commission shall set a date for a hearing which must be held not less than 15 days nor more than 30 days after the date the petition is filed. The commission shall give notice, stating the time and place of the hearing, to the commissioners court of each county where land in the proposed district is located. The county clerk of each county shall post a notice of the time and place of the hearing at the courthouse door. (39th Legis., Ch. 205, Sec. 2, sen. 2.)

§ 55.042. Multi-county District: Hearing

At the hearing, any person whose land would be affected by creation of the district may appear and support or oppose creation of the proposed district, and may offer competent testimony to show that the district would or would not serve a beneficial purpose, be practicable, or accomplish the purposes intended. (39th Legis., Ch. 205, Sec. 2, sen. 3.)

§ 55.043. Multi-county District: Findings

(a) If the commission finds that the plan of water conservation, irrigation, and use presented in the petition is practicable and would be a public utility, the commission shall enter the findings in its records and shall send a certified copy of the findings to the commissioners court in each county in which part of the proposed district is located. The commission shall also inform each commissioners court of a date set by the commission on which an election shall be held in the area of the proposed district to determine whether the district will be created and to elect five directors for the district.

(b) If the commission finds that creation of the district is not practicable, that it would not serve a beneficial purpose, and that it would not be possible to accomplish through its creation the purposes proposed, the commission shall enter its findings in its records and shall dismiss the petition. (39th Legis., Ch. 205, Sec. 2, sen. 4, 5.)

§ 55.044. Multi-county District: Notice of Election

On receiving a certified copy of the findings of the commission authorizing the election, the commissioners court of each county shall have no-

tices of the election posted, in the manner provided for an election to create a single-county district, for not less than 15 nor more than 30 days before the date of the election. (39th Legis., Ch. 205, Sec. 2, sen. 6.)

§ 55.045. Multi-county District: Rules Governing Election

Except as provided by the succeeding sections, the election shall be held, the returns made and canvassed, and the results declared, as provided in the case of a single-county district. (R.S. Art. 7634, sen. 7; 39th Legis., Ch. 205, Sec. 2, sen. 7, 8, 9.)

§ 55.046. Multi-county District: Election Returns, Canvass, Result

(a) The commission shall designate the county judge of one of the counties in the proposed district to act as a canvassing board to receive and canvass the votes cast and to declare the result of the election.

(b) In each county, the officers appointed by the commissioners court to hold the election shall return the results to the commissioners court and shall return all ballot boxes to the county clerk.

(c) On receiving the returns of the election, the commissioners court shall canvass the returns and certify the result of the election in the county to the county judge appointed to act as canvassing board.

(d) When the county judge receives the returns from all the counties, he shall canvass the returns and certify the result of the election to the commissioners court of each county, which shall enter the result of the election in its permanent records.

(e) If the proposition to create the district is carried, the county judge acting as the canvassing board shall make and transmit to each commissioners court an appropriate order declaring that the district is created and describing its boundaries. He shall also issue certificates of election to the persons elected as directors, who shall proceed with the organization of the district as otherwise provided by this chapter. (R.S. Art. 7730; Art. 7635, sen. 3.)

§ 55.047. Exclusion of City, Unincorporated Area, or County Voting against District

(a) As used in this section:

(1) "city" includes town or other municipal corporation; and

(2) "unincorporated area" means an area not included within the boundaries of a city.

(b) Each city included within the boundaries of the proposed district shall be treated as a separate voting unit, and the votes cast in the city shall be counted and canvassed to show the result of the election in the city. No city shall be included in the district unless the majority of the votes cast in the city favor creation of the district.

(c) If the proposed district includes both incorporated and unincorporated areas in a county, the unincorporated area shall not be included in the district unless the majority of the votes cast in the unincorporated area favor creation of the district.

(d) No district, the major portion of which is in one county, shall be organized to include land in another county unless the majority of the votes cast in the other county favor creation of the district.

(e) If any portion of a proposed district, under the provisions of this section, votes against creation of the district, and the remaining area of the proposed district votes for the district, then the proposition shall be

adopted and the district confirmed except as to the territory voting against the district.

(f) All property in the territory of the district as originally proposed is subject to taxation for the payment of all debts and obligations, including organization expenses, incurred while part of the district.

(g) If at least 10 percent of the qualified electors of the area remaining in the district file a petition with the board of directors requesting a new election on creation of the district, then a new election shall be ordered and held for the remaining area, or the district organization may be dissolved by order of the board of directors and a new district formed. (39th Legis., Ch. 205, Sec. 3.)

§ 55.048. Name of District

(a) The name of a district wholly within one county shall include the name of the county and a number. Districts wholly within one county shall be numbered consecutively as created, and no two districts may have the same number.

(b) The name of a district with territory in two or more counties may include the names of those counties, or the district may adopt any appropriate name. The name may include a number, but the number may not be the same as the number of a district in any of the counties. The number of a district created in any county may not be the same as the number of a district with territory in that county and other counties. (R.S. Arts. 7636, 7637.)

§ 55.049. Survey of District Boundaries

Immediately after the directors are qualified, the board shall order a survey of the boundaries of the district to be made according to the boundaries designated in the petition for creation of the district, or the board shall adopt, in whole or in part, the boundaries already established, and order the boundaries marked by suitable monuments. (R.S. Art. 7645.)

§ 55.050. Chapter Applicable to Irrigation Districts

Irrigation districts created under the laws of 1905, 1913, and 1915 (Chapter 50, Acts of the 29th Legislature, 1905; Chapter 172, Acts of the 33rd Legislature, 1913; and Chapter 138, Acts of the 34th Legislature, 1915), are governed by the provisions of this chapter. (R.S. Art. 7764, sen. 3 (part).)

§ 55.051. Change of District Name

(a) An irrigation district created under the law of 1905, 1913, or 1915 (Chapter 50, Acts of the 29th Legislature, 1905; Chapter 172, Acts of the 33rd Legislature, 1913; and Chapter 138, Acts of the 34th Legislature, 1915), may change the name of the district to the name provided in this chapter by filing a declaration to change the name with the commissioners court of the county in which the district is located.

(b) The declaration to change the district's name shall be in the form of a deed of conveyance and shall be acknowledged by the president and secretary of the board. It shall include a copy of the minutes of the board and the resolution adopted to change the name.

(c) After the declaration is recorded, the name of the district shall be changed. (R.S. Art. 7764, sen. 5.)

§ 55.052. Suits Contesting Creation of District, Etc.

Except as otherwise provided by this chapter, no suit may be brought enjoining creation of a district, contesting the validity of the proceedings creating the district, enjoining the issuance of bonds or contesting their validity, or enjoining the execution of a contract with the United States or contesting its validity, except by the attorney general, in the name of the State of Texas, on his own motion or on the motion of any affected party on good cause shown. (R.S. Art. 7702.)

§ 55.053. Conversion of Article III, Section 52 District To Article XVI, Section 59 District

(a) A water improvement district created subject to the limitations of Article III, Section 52, of the Texas Constitution, may be converted into a water improvement district operating under the authority of Article XVI, Section 59, of the Texas Constitution, as provided by this section.

(b) On the petition of 20 percent of the owners of land in the district, the board of directors shall order an election to determine whether the district shall be converted to a district operating under Article XVI, Section 59, of the Texas Constitution. The election shall be conducted under the rules applicable to general elections in the district. The ballots shall be printed to provide for voting for or against: "Conservation and Reclamation."

(c) The board shall canvass the returns, make an order declaring the result of the election, and have the order recorded in the deed records of the county or counties in which the district is located. If the result of the election is affirmative, the district begins operating under Article XVI, Section 59, of the Texas Constitution, without change of name or impairment of its obligations, when the order is recorded. (R.S. Arts. 7802-7806.)

[Sections 55.054-55.100 reserved for expansion]

SUBCHAPTER C. ADMINISTRATIVE PROVISIONS**Section 55.101. Board of Directors**

The governing body of a district is the board of directors. (R.S. Art. 7652 (part); Art. 7765 (part).)

§ 55.102. Qualifications of Directors

To be qualified for election as a director, a person must be a resident of the state, own land subject to taxation in the district, and be more than 21 years of age at the time of the election. (R.S. Art. 7641.)

§ 55.103. Application to Get on Ballot

(a) A person qualified to serve as a director may file an application with the secretary to have his name printed on the election ballots. The application must be signed by the applicant or by at least 10 qualified electors of the district and must be filed at least 20 days before the date of the election.

(b) Only persons for whom applications are filed under this section may have their names printed on the ballots. However, nothing in this section prevents write-in votes. (42nd Legis., Ch. 13, Sec. 1.)

§ 55.104. Election Date: General Rule

Except as provided by Section 55.106 of this code, the general election of five directors shall be held in the district on the second Tuesday of January in each even-numbered year. (R.S. Art. 7718, Sec. (a), as amended.)

§ 55.105. Conduct of Elections

All district elections shall be held in accordance with the general election law except as otherwise provided by this chapter. The board of directors shall appoint necessary election officers, designate the polling places, receive and canvass the election returns, declare the result, and perform all other duties necessary to the proper conduct of the elections. (R.S. Art. 7719.)

§ 55.106. Term of Office

Except as provided by Section 55.107 of this code, a director holds office for a term of two years and until his successor is elected and has qualified. (R.S. Art. 7717.)

§ 55.107. Optional Conversion to Staggered Terms

(a) The board, by resolution adopted before December 1 of any year on the vote of at least four directors, may adopt the system of staggered two-year terms of office as provided by this section.

(b) On the second Tuesday in January immediately succeeding adoption of the resolution, five directors shall be elected. Of the five elected, the two receiving the fewest votes shall serve for one year and the other three shall serve for two years. However, if the vote is such that two of them do not receive fewer votes than the other three, then the directors shall determine by lot which two will serve one year and which three will serve two years.

(c) After the election provided for in Subsection (b) of this section, an election shall be held on the second Tuesday of January of each year to elect successors for the directors whose terms expire, to hold office for terms of two years. (R.S. Art. 7718, Sec. (b), as amended.)

§ 55.108. Appointment of Directors in Certain Districts

(a) If the petition to create a district proposes a district which would contain no more than 12,000 acres of land, and if at least 60 percent of the land is owned by persons who do not reside in the district, the petition may request that the directors be appointed by the commissioners court. If so, the directors shall be appointed instead of elected. The commissioners court shall appoint the directors at the time otherwise fixed for electing directors, or if the court is not in session at that time, it shall appoint the directors as soon as possible.

(b) The owners of land in the district may file petitions with the commissioners court expressing their choice of persons to be selected as directors. If the owners of at least 60 percent of the land agree on the persons to be appointed, the commissioners court shall appoint those persons. Otherwise, the court shall appoint suitable, qualified persons as directors. (R.S. Art. 7718, Sec. (c), as amended.)

§ 55.109. Oath and Bond

(a) Each director shall take the oath of office prescribed by law for county commissioners, except that the name of the district shall be substituted for the name of the county.

(b) Within 10 days after the commissioners court enters its order declaring the result of the election and the creation of the district, or as soon after that time as practicable, each director shall execute a good and sufficient bond for \$5,000, payable to the district, conditioned on the faithful performance of his duties.

(c) The bond of each director elected in the election to create the district is subject to the approval of the commissioners court. After the organization of the district, all bonds required to be given by any director, officer, or employee of the district are subject to the approval of the board.

(d) The county clerk shall record each bond and oath in the official bond records of the county and shall deliver them to the district depository to be preserved as a part of the records of the district. (R.S. Art. 7639.)

§ 55.110. Additional Bonds

(a) If a district is appointed fiscal agent of the United States or is authorized to collect money for and in behalf of the United States in connection with any federal reclamation project, the assessor and collector and each director shall execute an additional bond in an amount set by the secretary of the interior, conditioned on the faithful performance of the duties of his office and the faithful performance by the district of its duties as fiscal or other agent of the United States.

(b) The additional bonds shall be approved, recorded, and filed as provided for other official bonds. The additional bonds may be sued on by the United States or by any person injured by failure of the officer or the district to perform fully, promptly, and completely the required duties. (R.S. Art. 7644.)

§ 55.111. Compensation of Directors

(a) A director is entitled to receive \$5 a day for each day he actually spends performing his duties as a director.

(b) Before a director may receive compensation for his services, he shall file with the secretary an affidavit stating the number of days actually spent in the service of the district. The affidavit shall be filed on the last Saturday of each month, or as soon after that time as practicable. (R.S. Art. 7722.)

§ 55.112. Officers; Quorum

(a) After each regular election, the board shall elect one director president and one secretary. The board may elect a president pro tem and a secretary pro tem, who shall act in the absence or inability of the president or secretary. (R.S. Art. 7640, sen. 1, 2.)

(b) Three directors constitute a quorum for any meeting; and a concurrence of three is sufficient for transacting any business of the district except letting construction contracts and drawing warrants on the depository, which require the concurrence of four directors. Warrants to pay current expenses, salaries, and labor and material accounts may be drawn

by an officer or employee designated by standing order of the directors when these accounts have been contracted and ordered paid by the directors. (R.S. Art. 7640, sen. 3.)

§ 55.113. Vacancies on Board

(a) Except as otherwise provided by this section, all vacancies on the board shall be filled by appointment of the board.

(b) If the number of directors is reduced for any cause to fewer than three, then the vacancies shall be filled by special election ordered by the president of the board or by two directors. If the president or two directors fail or refuse to order an election, then five persons who are either taxpayers or bondholders of the district may petition the judge of any judicial district in which land of the district is located, and the judge shall order the election.

(c) If an election is ordered under this section, then notice shall be given and the election shall be held as provided for general elections.

(d) If less than a quorum exists to approve the bonds of elected directors, then the bond for each director shall be approved by the commissioners court of the county of his residence.

(e) A director appointed or elected under this section holds office until the next general election and until his successor is elected and has qualified. (R.S. Art. 7721.)

§ 55.114. General Manager

(a) The board may employ a general manager.

(b) In addition to other powers granted and duties imposed by the board, the general manager shall:

(1) manage the district's water distribution system, subject to the rules and regulations of the board,

(2) appoint and discharge district employees, except the tax assessor and collector;

(3) purchase and contract for all supplies necessary for the water distribution system, after the board has authorized the purchases;

(4) collect the assessments for operation and maintenance; and

(5) execute, on behalf of the district, water contracts and other contracts not required to be executed by the board or by the president and secretary. (R.S. Art. 7772, sen. 1.)

§ 55.115. Director as Manager

A director may be employed as general manager with compensation fixed by the other four directors. When so employed, he shall also perform the duties of a director without the compensation specifically provided for directors. (R.S. Art. 7652 (part).)

§ 55.116. District Tax Assessor and Collector

The board may appoint one person to the office of tax assessor and collector, or it may order an election to fill that office. (R.S. Art. 7642, sen. 1, 2, as amended.)

§ 55.117. Tax Assessor and Collector's Bond

(a) The tax assessor and collector shall execute a good and sufficient bond for \$5,000, signed by two good and sufficient sureties and approved by the board. The bond shall be conditioned on the faithful performance

of his duties and on paying over to the depository all money or other things of value that he receives in his capacity as tax assessor and collector.

(b) The board may require the tax assessor and collector to give additional bonds or security or a larger bond at any time. (R.S. Art. 7642, sen. 3, 4, as amended.)

§ 55.118. Deputy Tax Assessor and Collectors

(a) The board may appoint one or more deputies to assist the tax assessor and collector for a period not to exceed one year.

(b) Each deputy shall perform duties as determined by the board, and the board may discharge a deputy at any time.

(c) Each deputy shall execute a bond in an amount determined by the board at the time of his appointment and at any other time as ordered by the board. (R.S. Art. 7643, sen. 2, 3, 4.)

§ 55.119. Compensation of Tax Assessor and Collector and Deputies

The board shall fix the compensation of the tax assessor and collector and each deputy at an amount not to exceed \$3,000 a year. (R.S. Art. 7643, sen. 1.)

§ 55.120. Additional Duties

The board may require the tax assessor and collector to perform duties other than those specified in this chapter and may provide additional compensation for performing the additional duties. (R.S. Art. 7643, sen. 5.)

§ 55.121. Other Employees

The general manager, or the board if no general manager is appointed, shall employ the employees necessary for the proper operation of the district, including attorneys, bookkeepers, engineers, watermasters, and necessary assistants and laborers. (R.S. Art. 7652 (part); Art. 7772, sen. 2.)

§ 55.122. Employees: Compensation and Terms of Employment

The manager and the employees shall be employed for the period of time and on terms and conditions deemed most favorable for the district. However, no employment contract may be made for a period of more than one year, and the salary or compensation shall be fixed at the time of employment. (R.S. Art. 7720; Art. 7772, sen. 3.)

§ 55.123. Surety Company Bond

(a) An officer or employee of a district who is required to execute a bond or give security may execute a bond of a surety company, subject to the approval of the board. The surety company furnishing the bond shall file with the county clerk a power of attorney, executed by the officers of the company and bearing the company seal, showing that the person who signed the bond for the company had the authority to do so.

(b) The power of attorney shall be kept on file in the county clerk's office, and the bond shall be preserved as property of the district. (R.S. Art. 7760.)

§ 55.124. District Office

The board shall maintain a regular office suitable for conducting the affairs of the district. The office shall be located within the district, or in a city or town proximate to the district and in the same county or counties, if the city or town is best suited for transacting the business of the district and is accessible to the residents of the district. (R.S. Art. 7759, sen. 1; R.S. Art. 7780.)

§ 55.125. Meetings

(a) The board shall hold all meetings at the district office.

(b) The board shall hold regular meetings at 10 a. m. on the first Monday in February, May, August, and November of each year, and may hold other regular or special meetings.

(c) Any resident taxpayer or interested person may attend any meeting of the board and present matters for the board's consideration, but no person may participate in any meeting without the consent of the board, and no person other than the directors may vote on any matter considered by the board. (R.S. Art. 7761, sen. 1; Art. 7759, sen. 2, 3.)

§ 55.126. Suits

A district may sue and be sued in the courts of this state in the name of the district. All courts of this state shall take judicial notice of the creation of the district and of its boundaries. (R.S. Art. 7655 (part).)

§ 55.127. Contracts

District contracts shall be executed by the board in the name of the district. (R.S. Art. 7652 (part); Art. 7655 (part).)

§ 55.128. Prohibited Interests of Directors

(a) No director, district engineer, or district employee, either for himself or as agent for anyone else, may be directly or indirectly interested in any contract for the purchase or construction of any improvements by the district.

(b) A person who violates Subsection (a) of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$100 or by confinement in jail for not less than six months nor more than one year, or by both. (R.S. Art. 7654.)

[Sections 55.129–55.160 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES

Section 55.161. Purposes of District

(a) A water improvement district may provide for irrigation of the land within its boundaries.

(b) A district operating under Article XVI, Section 59, of the Texas Constitution, may furnish water for domestic, power, and commercial purposes.

(c) A district may be formed to cooperate with the United States under the federal reclamation laws for the purpose of:

(1) construction of irrigation and drainage facilities necessary to maintain the irrigability of the land;

(2) purchase, extension, operation, or maintenance of constructed facilities; or

(3) assumption, as principal or guarantor, of indebtedness to the United States on account of district lands. (R.S. Art. 7622, sen. 4, 5, as amended.)

§ 55.162. Machinery, Supplies, Etc.

The district may purchase work animals, machinery, and supplies needed in the construction, operation, and repair of district improvements. (R.S. Art. 7652 (part).)

§ 55.163. Improvements: Purchase or Construction

A district may purchase or construct improvements and facilities necessary for irrigation of land in the district, and if operating under Article XVI, Section 59, of the Texas Constitution, improvements and facilities necessary to supply, deliver, and sell water for domestic, power, and commercial purposes. (R.S. Art. 7622, sen. 3 (part); Art. 7656 (part); Art. 7765 (part).)

§ 55.164. Land; Rights-of-Way

The district may acquire by gift, grant, purchase, or condemnation, any land or right-of-way necessary or incident to the successful operation of its improvements, including rights-of-way for the enlargement, extension, or improvement of existing canals or ditches for the purpose of raising the canals or ditches jointly with the owners. (R.S. Art. 7656 (part).)

§ 55.165. Drainage Ditches: Levees

The board may include in the plans of the district the necessary drainage ditches, or other facilities for drainage, and levees for the protection of land in the district. The district may purchase all or part of any system belonging to a drainage district. However, the purchase contract shall provide for paying or assuming the debts of the drainage district, and the amount of the debts paid or assumed shall be considered in determining the bond-issuing capacity of the district. (R.S. Art. 7754.)

§ 55.166. Constructing Bridges and Culverts across and over County and Public Roads

The district shall build necessary bridges and culverts across and over district canals, laterals, and ditches which cross county or public roads. Funds of the district shall be used to construct the bridges and culverts. (R.S. Art. 7746.)

§ 55.167 Constructing Culverts and Bridges across and under Railroad Tracks and Roadways

(a) The district, at its own expense, may build necessary bridges and culverts across or under any railroad tracks or roadways to enable the district to construct and maintain any canal, lateral, or ditch which is a necessary part of its improvements.

(b) Before the district proceeds to build bridges and culverts, the board shall deliver to the legal agent, division superintendent, or roadmaster written notice. The railroad company shall have 30 days in which to build the bridges and culverts at its own expense and according to its own plans.

(c) The bridges and culverts shall be placed at points designated by the board or the district engineer and shall be constructed so that they will not interfere with the free and unobstructed flow of water passing through the canal or ditch. (R.S. Art. 7745.)

§ 55.168. Right to Enter Land

(a) The board, the district engineer, and the employees of the district may enter any land inside the district to examine the land, to locate reservoirs, canals, dams, pumping plants, and other improvements, and to make maps and profiles of the land. The board, the district engineer, and the district's employees may also go outside the boundaries of the district to accomplish the same purposes for which they may enter land inside the district and for any other purposes related to those listed.

(b) A person who wilfully violates Subsection (a) of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$100 for each day he violates the law. (R.S. Art. 7738.)

§ 55.169. Construction Contracts

The board shall enter into contracts with the lowest responsible bidders for construction of reservoirs, dams, canals, laterals, pumping plants, check gates, sluice gates, and other improvements for the district. This section does not apply to contracts made by the district with the United States. (R.S. Art. 7739 (part).)

§ 55.170. Notice of Taking Bids for Construction

The board shall give notice that it is taking bids for construction under Section 55.169 of this code by publishing notice once a week for four consecutive weeks in one or more newspapers with general circulation in the state and in one newspaper published in the county if a newspaper is published in the county and one newspaper published in the district if a newspaper is published in the district. Also, the board shall post notice for at least 20 days at the courthouse door and at five other public places in the district. (R.S. Art. 7739 (part).)

§ 55.171. Reports Furnished to Prospective Bidders

The board shall furnish to any person who desires to bid on construction work and who requests it a copy of the engineer's report and profile which show the work to be done. The board may charge for each copy of the engineer's report and profile an amount sufficient to cover the actual cost of having them made and furnished. (R.S. Art. 7740, sen. 1.)

§ 55.172. Construction Bids

Any person who desires to bid on proposed construction work shall submit to the president or the secretary of the board a written sealed bid together with a certified check for at least two percent of the total amount of the bid. Bids shall be opened at the same time, and the board may reject any or all of the bids. If the successful bidder refuses to enter into a proper contract with the district, he forfeits the amount of the certified check which accompanied his bid. (R.S. Art. 7740, sen. 2, 3, 4.)

§ 55.173. Provisions of Contracts for Construction Work

Any contract made by the board for construction work shall conform to the provisions of this chapter, and the provisions of this chapter will be

considered to be a part of the contract and shall prevail when the provisions of this chapter and the contract are in conflict. The contract shall include a full statement of the specifications for work included in the contract, and all work shall be done in accordance with these specifications under the supervision of the board and the district engineer. (R.S. Art. 7741, sen. 1; R.S. Art. 7743.)

§ 55.174. Executing and Recording Construction Contract

Contracts for construction work shall be in writing and signed by the board and the contractor. A copy of the contract shall be filed with the county clerk, and the county clerk shall record the contract in a book kept for that purpose. The contract shall be available for public inspection. (R.S. Art. 7741, sen. 2.)

§ 55.175. Contractor's Bond

The contractor shall execute a bond in an amount determined by the board, not to exceed the contract price, payable to the district and approved by the board, conditioned on the faithful performance of the obligations, agreements, and covenants of the contract. The bond shall provide that if the contractor defaults on the contract, he will pay to the district all damages sustained as a result of the default. The bond shall be deposited in the district depository, and a copy of the bond shall be kept in the office of the board. (R.S. Art. 7742.)

§ 55.176. Inspection of and Reports on Construction Work

(a) The board shall inspect construction work being done for the district under contract to determine whether or not the contract is being fulfilled. (R.S. Art. 7748 (part).)

(b) During the progress of the construction work, the district engineer shall submit to the board detailed reports showing whether or not the contractor is complying with the contract, and when the work is completed, the district engineer shall submit to the board a final detailed report showing whether or not the contractor has fully complied with the contract and stating any particular instances in which the contract was not fulfilled. The board is not bound by the report of the district engineer and may investigate the work to determine if the contractor complied with the contract. (R.S. Art. 7744.)

§ 55.177. Payment for Construction Work

When construction work is completed according to the terms of the contract, the board shall draw a warrant on the district depository payable to the contractor or his assignee in the amount owed the contractor under the contract. (R.S. Art. 7748 (part).)

§ 55.178. Partial Payment of Construction Work

In order to obtain more favorable contracts, the board may authorize construction work to be paid for in partial payments as the work progresses. The total amount of partial payments made under the contract may not be more than the amount due for 85 percent of the work done under the contract. The district engineer shall indicate the amount of work completed in a certified report. (R.S. Art. 7748 (part).)

§ 55.179. Joint Ownership Contracts

Two or more districts may enter into a contract to jointly own and construct irrigation works and reservoirs. The contract may include provisions for joint construction and operation, but the terms and conditions may not conflict with the laws providing for the organization and operation of the districts. The parties joining in the contract shall have the terms of their agreement incorporated into a written or printed contract. (R.S. Art. 7763, sen. 1, 4 (part), 7.)

§ 55.180. Election to Approve a Joint Ownership and Construction Contract

(a) Before the districts may be bound by a joint ownership and construction contract made under Section 55.179 of this code, an election to approve the contract must be held in each of the districts.

(b) The election to approve the contract shall be held on the same day in each district.

(c) At least 15 days before the day of the election, a copy of the contract must be filed in the office of each of the districts and be made available for public inspection. During the 15-day period immediately preceding the day of the election, each district must furnish a copy of the contract to any elector who appears at the office and requests a copy.

(d) If a majority of the electors in each district approve the contract at the election, the contract is adopted and is binding.

(e) The contract may be amended in the manner provided for adopting the original contract. (R.S. Art. 7763, sen. 2, 3, 4 (part), 8.)

§ 55.181. General Manager for Joint Projects

The boards of the districts which are parties to a joint ownership and construction contract may employ a general manager for the joint project. The duties of the general manager may be included in the provisions of the joint contract. (R.S. Art. 7763, sen. 6.)

§ 55.182. Transactions in District Names under Joint Ownership and Construction Contracts

All bids, bonds, contracts, and other transactions made under a joint ownership and construction contract may be made in the names of the districts which are parties to the contract. (R.S. Art. 7763, sen. 5 (part).)

§ 55.183. Joint Projects under Joint Ownership and Construction Contracts

(a) When districts operating under a joint ownership and construction contract plan to construct any improvements, the districts may call jointly for bids on these improvements.

(b) The bids may be opened and considered at the office of any of the districts which are parties to the contract.

(c) The boards shall approve the award of the contract and the contractor's bond. The boards may meet for this purpose either at an office outside the districts or at an office established for transaction of all business of the joint project. (R.S. Art. 7763, sen. 5 (part).)

§ 55.184. Additional Powers of Districts under Joint Ownership and Construction Contracts

Districts which are acting under a joint ownership and construction contract may exercise jointly all powers which may be exercised by a single district. (R.S. Art. 7763, sen. 5 (part).)

§ 55.185. Contract With the United States

The board may enter into a contract or other obligation with the United States for the following purposes:

- (1) to construct, operate, and maintain necessary facilities to deliver and distribute water;
- (2) to drain district land;
- (3) to assume debt for district land;
- (4) to rent temporarily United States water for use on district land under the federal reclamation laws; or
- (5) to furnish a water supply to the district under any act of Congress which authorizes it. (R.S. Art. 7653 (part).)

§ 55.186. Payments Made by a District under a Contract with the United States

(a) If a district enters into a contract with the United States, the district may deposit with the United States district bonds at 90 percent of par value to pay the amount owed by the district under the contract. The district shall pay interest on the bonds in the same manner that other bonds of the district are paid. Interest shall be paid regularly to the United States and applied in the manner provided in the contract.

(b) If bonds are not deposited as provided in Subsection (a) of this section, the board shall include in any levy or assessment made by the district an amount sufficient to make annual payments under the terms of the contract. (R.S. Art. 7653 (part).)

§ 55.187. District as Fiscal Agent for United States

The board may accept on behalf of the district appointment as the fiscal agent for the United States on any federal reclamation project. As fiscal agent, the district may assume the duties and perform the acts incident to this capacity and shall do anything required by federal statutes and rules and regulations established by any department of the federal government. (R.S. Art. 7653 (part).)

§ 55.188. Conveying Property to the United States

If the district enters into a contract with the United States, the board may convey to the United States any property which is necessary for constructing, operating, and maintaining improvements for the benefit of the district. (R.S. Art. 7657.)

§ 55.189. Contracts and Agreements with Other Districts

(a) The board may enter into a contract or other obligation with any other water improvement district, any water control and improvement district, or any conservation and reclamation district to construct, operate, and maintain necessary facilities for the delivery and distribution of water from the other district or to drain district land and may enter into a contract with the same district for that district to pump and supply water.

(b) The contract may include provisions for the joint construction and operation of necessary facilities for delivery and distribution of the water supply, but the terms and conditions of the contract may not conflict with the law providing for the organization and operation of the districts.

(c) The agreement of the parties shall be included in a written contract. The contract shall be acknowledged in the manner and form provided by law for conveyance of real estate, and shall be recorded in the real estate records of the county or counties in which the districts are located.

(d) The boards of the districts which are parties to the contract may amend the contract by mutual agreement. (R.S. Art. 7653a, sen. 1 (part), 2, 3, 4.)

§ 55.190. Issuing Bonds to Pay Cost of Projects under Contracts with Other Districts

Any district which enters into a contract under Sec. 55.189 of this code may issue bonds to pay for carrying out the provisions of and paying obligations under the contract. The district may issue the bonds separately or as part of a general bond issue of the district, in the manner and subject to the regulations, terms, conditions, and provisions of other bonds issued under this chapter. (R.S. Art. 7653a, sen. 5, 6.)

§ 55.191. Providing Facilities for Water Supply Obtained from Other Districts

Any district which has entered into a contract to obtain a water supply under Section 55.189 of this code may make or purchase improvements necessary to receive and distribute the water supply to lands in the district for district purposes. (R.S. Art. 7653a, sen. 1 (part).)

§ 55.192. Acquiring Water Rights

Any district may acquire water rights in the manner provided by law. (R.S. Art. 7765 (part).)

§ 55.193. Selling Water Rights

(a) Any district which has a permit issued by the Texas Water Rights Commission to construct a reservoir and to appropriate water from a stream or watershed for irrigation or other purposes may convey to another district an interest in the reservoir or water rights.

(b) The conveyance shall be recorded in the office of the county clerk of the county in which the property is located and in the office of the Texas Water Rights Commission.

(c) The conveyance, when filed, shall convey all rights in the interest conveyed which were held under the permit by the district conveying the interest.

(d) After the conveyance is filed in the office of the Texas Water Rights Commission, the rights conveyed vest in the district to which the conveyance was made as if the rights were granted directly by the Texas Water Rights Commission. (R.S. Art. 7800.)

§ 55.194. Transfer of Water Right

If there is land in a district which has a water right from a source of supply acquired by the district but the land is difficult or impracticable

to irrigate from that source of supply, the district may allow transfer of the water right to other land which is adjacent to the district. The adjacent land may be admitted to the district with the same right of water service as other land already in the district. (R.S. Art. 7767.)

§ 55.195. Supplying Water to Cities Outside the District

When a district acquires an established irrigation system which supplies water to landowners in a city, town, or village which is not included in the district, the district shall continue to supply water to the landowners at a reasonable annual rate. (R.S. Art. 7750.)

§ 55.196. Selling Waterpower Privileges

The district may enter into a contract to sell waterpower privileges if power can be generated from water flowing from the district's reservoirs and irrigation system. The sale of waterpower privileges may not interfere with the district's obligation to furnish an adequate supply of water for irrigation and for municipal purposes in districts which furnish water for municipal purposes. (R.S. Art. 7790.)

§ 55.197. Selling Surplus Water

The district may sell to any person who owns or uses land in the vicinity of the district any surplus district water for use in irrigation or for domestic or commercial uses. (R.S. Art. 7792 (part), as amended.)

§ 55.198. Pumping and Delivering Water to Land near District

The district may enter into a contract with a person who owns or uses land in the vicinity of the district and who has a permit from the Texas Water Rights Commission to appropriate water for use in irrigation or for domestic or commercial uses to pump or deliver the water to the person's land. (R.S. Art. 7792 (part), as amended.)

§ 55.199. Sale of Land which Is No Longer Needed for District Purposes

(a) The board may sell to the highest bidder at a public sale any land or interest in land which was acquired by the district to carry out its plans and which is no longer necessary to carry out that purpose.

(b) Before the land is sold, the district must publish notice of the sale once a week for two consecutive weeks in one or more newspapers which have general circulation in the district. The first notice must be published at least 10 days before the sale.

(c) The district may use the proceeds from the sale to add to or improve district improvements for which other funds are not available, and any funds which are not needed for this purpose shall be placed in the interest and sinking fund to retire the district's outstanding bonds. The board may use for any other lawful purpose any remaining funds which are not required to accomplish the purposes stated above. (57th Legis., Ch. 124, Sec. 1, 2.)

§ 55.200. Sale of Land Acquired by a District for Other than District Purposes

The district may sell to the highest bidder at a public sale any land acquired by the district through foreclosure of liens for maintenance and operation assessments or acquired by the district for any purpose other

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than carrying out its plans. The board may use proceeds from the sale for making improvements in the district, for maintenance and operation of the district's system, or for carrying on district business. (57th Legis., Ch. 124, Sec. 3.)

§ 55.201. Use of Excess District Money

After all district improvements are completed and all expenses are paid, the board may use any remaining money to preserve, maintain, and repair district improvements. (R.S. Art. 7747.)

§ 55.202. Board's Semiannual Report

On the first day of January and July of each year, the board shall make and verify a report which shows in detail the kind, character, and amount of improvements constructed in the district, the cost of the improvements, the amount of each warrant paid, the person to whom each warrant was paid, the purpose for which each warrant was paid, and other data necessary to show the condition of improvements made. The report shall be filed with the county clerk in the county or counties in which the district is located and made available for public inspection. (R.S. Art. 7749.)

§ 55.203. Court Actions

Any district through its board of directors may bring suit

- (1) to protect its water supply and other rights and property;
- (2) to prevent unlawful or unwarranted interference with or diversion of the water supply;
- (3) to protect its bonds and other indebtedness; and
- (4) to maintain its taxable and assessable values. (R.S. Arts. 7797, 7798.)

§ 55.204. Waiver of District Tort Immunity

If the board finds that it is in the best interest of the district and that it is necessary to enable the district to enter into a contract to employ Mexican laborers, it may enter into a written contract to waive in advance the district's immunity from liability in damages for personal injuries and sickness which is proximately caused by torts of the district or negligence of agents or employees of the district and which is suffered by Mexican laborers employed by the district under the terms of the Migrant Labor Agreement of 1951 between the United States and Mexico or any subsequent agreement of a similar nature. (56th Legis., 2nd C.S., Ch. 15, Sec. 1.)

[Sections 55.205–55.240 reserved for expansion]

SUBCHAPTER E. REGULATORY POWERS

Section 55.241. Purpose

The powers granted to the district and its board under this subchapter are for the purpose of helping the district to maintain the purity of district water, to protect the preservation and use of the water, to protect the lives of persons who desire to go on, over, or across the water, and to

insure the safety of persons using the water. (44th Legis., Ch. 293, Subsec. 1, sen. 5.)

§ 55.242. Rules and Regulations

The board may make and adopt reasonable rules and regulations which are necessary

- (1) to preserve the sanitary condition of water controlled by the district;
- (2) to prevent waste or unauthorized use of water; and
- (3) to regulate residence, boating, camping, and recreational and business privileges on any land or water owned or controlled by the district. (44th Legis., Ch. 293, Subsec. 1, sen. 1 (part).)

§ 55.243. Notice of Rules and Regulations

(a) Before a rule or regulation providing for a penalty may be effective, the district must publish a substantial statement of the rule or regulation and the penalty in one or more newspapers with general circulation in the district once a week for two consecutive weeks.

(b) The published statement shall be as condensed as possible so that the object to be accomplished or the act which is forbidden by the rule or regulation can be easily understood.

(c) The publication of notice may include notice of any number of rules and regulations.

(d) The notice shall include a statement that the violation of a rule or regulation will subject the person who violates it to a penalty and that a complete copy of the rule or regulation is on file in the principal office of the district and may be inspected.

(e) A rule or regulation shall be effective five days after the second publication of the notice, and ignorance of the rule or regulation does not constitute a defense to prosecution for enforcement of the penalty. (44th Legis., Ch. 293, Subsec. 2, sen. 2 (part), 3 (part).)

§ 55.244. Judicial Notice of Rules and Regulations

The courts shall take judicial notice of rules and regulations made and adopted under this subchapter. The rules and regulations shall be considered to be similar in nature to valid penal ordinances of a city. (44th Legis., Ch. 293, Subsec. 2, sen. 3 (part).)

§ 55.245. Contracts for Toll Bridges and Ferry Services

(a) The board has the exclusive right to enter into a contract with any responsible person to construct and operate toll bridges over water regulated by the district or to provide ferry service or other means of passenger transportation on water regulated by the district.

(b) A contract for construction and operation of a toll bridge may not extend for a period of more than 20 years and a contract providing for ferry service or other types of transportation may not extend for a period of more than 10 years.

(c) The contract may provide for forfeiture of the franchise or rights granted for failure of the licensee or other contracting party to render adequate and safe public service. (44th Legis., Ch. 293, Subsec. 1, sen. 1 (part).)

§ 55.246. Bond

The board shall require any person with whom it enters into a contract under Section 55.245 of this code to execute an adequate bond in an amount not to exceed \$1,000, payable to the district and conditioned as the board requires. (44th Legis., Ch. 293, Subsec. 1, sen. 1 (part).)

§ 55.247. License, Franchise, and Fee

(a) Before a person may keep or operate for hire on district water a ferry or other type of transportation, the person must obtain a license or franchise from the board.

(b) The board may fix the fee to be charged for the license or franchise in an amount not to exceed \$250 a year, and shall fix the fee according to the type of boat used. (44th Legis., Ch. 293, Subsec. 1, sen. 1 (part), 2.)

§ 55.248. Charges for Use of Toll Bridge Facilities and Ferry Service

The board may fix a reasonable amount of compensation to be charged by the owner or operator of a toll bridge or a ferry service or other type of transportation service for use of the facilities. (44th Legis., Ch. 293, Subsec. 1, sen. 1 (part).)

§ 55.249. Regulating Boats

(a) The district may prescribe the type of boats to be used on district water to carry persons for hire and for recreational purposes and may require the owner of a boat to submit the boat at a reasonable time to inspection to determine if the boat is serviceable.

(b) In an effort to protect the lives of the occupants of boats and persons using district water, the district may prescribe reasonable requirements for the use and manner in which they are used. (44th Legis., Ch. 293, Subsec. 1, sen. 1 (part).)

§ 55.250. Responsibilities of Boat Owners and Operators

(a) The owner or operator of a boat used as a ferry or other type of transportation shall keep the boat and boat landings in good and safe condition.

(b) The district is not liable for any negligent act or failure of duty on the part of the owner or operator of the boat. (44th Legis., Ch. 293, Subsec. 1, sen. 3, 4.)

§ 55.251. Peace Officers

The district may employ and constitute its own peace officers. The peace officers may make arrests when necessary to prevent or abate the commission of an offense against the regulations of the district or state laws if the offense occurs or is about to occur on land or water owned or controlled by the district. Arrests also may be made any place where an offense is being committed which involves injury or detriment to any property owned or controlled by the district. (44th Legis., Ch. 293, Subsec. 3.)

§ 55.252. Penalty for Violation of Subchapter

(a) A person who violates the provisions of this subchapter or rules and regulations of the district upon conviction is punishable by a fine of

not more than \$100 or by confinement in the county jail for not more than 30 days, or by both.

(b) The penalties provided by this section are in addition to other penalties provided by Texas law, and may be enforced by a complaint filed in a court of competent jurisdiction in the county in which the district's principal office is located. (44th Legis., Ch. 293, Subsec. 2, sen. 1, sen. 2 (part).)

§ 55.253. Injunction

In addition to the penalties provided by this subchapter, the district may seek an injunction in a court of competent jurisdiction in the county in which district water is located to enforce the provisions of this subchapter and rules and regulations of the district. (44th Legis., Ch. 293, Subsec. 4.)

[Sections 55.254–55.290 reserved for expansion]

SUBCHAPTER F. EMINENT DOMAIN

Section 55.291. Power of Eminent Domain

(a) Except as otherwise provided in this subchapter, the district may exercise the power of eminent domain to acquire by condemnation any property interest for the purposes stated in Section 55.292 of this code. The district also may acquire by condemnation from any land located in the district or within one mile of any district improvements earth, gravel, stone, clay, or any other materials which are needed to accomplish any of the purposes for which the district may condemn land.

(b) Land acquired under Subsection (a) of this section may be private or public and may be located inside or outside the district. (41st Legis., 5th C.S., G.L., Ch. 7, Sec. 1, sen. 1 (part), 2).

§ 55.292. Purposes for which Land May Be Condemned

The district may condemn land for the following purposes:

- (1) to construct, maintain, operate, police, and protect dams, reservoirs, canals, laterals, pumping sites, drainage ditches, levees, and other improvements necessary and proper for the district;
- (2) to provide sites for construction and working purposes; and
- (3) to provide passways and roadways along or to and from any dams, reservoirs, canals, laterals, pumping sites, drainage ditches, levees, and other district improvements. (41st Legis., 5th C.S., G.L., Ch. 7, Sec. 1, sen. 1 (part).)

§ 55.293. Land Exempt from Condemnation

The district may not condemn any property used to supply water under Texas law and necessary to make reservoirs, canals, laterals, pumping sites, levee or drainage ditches, or other appurtenant works. If the district is not operating under Article XVI, Section 59, of the Texas Constitution, it may not condemn property used for cemetery purposes. (41st Legis., 5th C.S., G.L., Ch. 7, Sec. 1, sen. 3.)

§ 55.294. Right to Remove Timbers and Other Materials from Condemned Land

The district is entitled to remove from any property which it takes by condemnation any timber or other materials necessary to construct, maintain, and operate any of the district's improvements or other structures. (41st Legis., 5th C.S., G.L., Ch. 7, Sec. 2.)

§ 55.295. Compensation Paid for Property Taken by Condemnation

The owner of property which is taken, damaged, or destroyed through the exercise of the power of eminent domain shall receive adequate compensation. (41st Legis., 5th C.S., G.L., Ch. 7, Sec. 1, sen. 4.)

§ 55.296. Law Governing Eminent Domain Proceedings

Except as otherwise provided in this subchapter, procedure for condemnation, appeal, and payment and for assessing damages shall conform to the law found in Title 52, Revised Civil Statutes of Texas, 1925, as amended. (41st Legis., 5th C.S., G.L., Ch. 7, Sec. 3 (part).)

§ 55.297. Condemnation Proceedings

Condemnation proceedings shall be handled in the name of the district and under the direction of the board. (41st Legis., 5th C.S., G.L., Ch. 7, Sec. 3 (part).)

§ 55.298. Simultaneous Condemnation of Several Parcels of Property

A petition for condemnation may include several parcels of property located in the same county whether the parcels are owned by the same person or persons or by several different persons. Compensation or damages paid for parcels of property which are owned by the same person or persons may be assessed separately or together, but if the parcels of property are separately owned by several different persons, compensation shall be assessed separately for each ownership. (41st Legis., 5th C.S., G.L., Ch. 7, Sec. 3 (part).)

§ 55.299. Jurisdiction over Persons Who Are Unknown or under a Disability

In condemnation proceedings, the jurisdiction of the court may be invoked by alleging that the person owning the land or an interest in the land to be condemned cannot be found after a diligent search, that his residence is unknown, or that he is a minor or has some other legal disability. This allegation is a sufficient statement that the district and the owner are unable to agree on the value of the land or on the amount of damages. (41st Legis., 5th C.S., G.L., Ch. 7, Sec. 3 (part).)

§ 55.300. Title Disputes Involving Condemned Property

(a) The court in which condemnation proceedings are pending shall have jurisdiction to determine conflicting and adverse claims to property and to award damages.

(b) If title to property is in dispute between two or more parties or there are conflicting or adverse claims, the damages shall be paid to the court until the dispute is resolved and then shall be paid to the rightful owner. (41st Legis., 5th C.S., G.L., Ch. 7, Sec. 3 (part).)

§ 55.301. Omitting Property Owners from Proceedings and Failing to Notify Property Owners of Proceedings

If a property owner is omitted from the condemnation proceedings or fails to receive notice of the proceedings, the omission or failure does not invalidate the proceedings and judgment of condemnation covering any person who was a party to the proceedings and who received proper legal notice. The property or interest in property which belongs to a person who was omitted from the proceedings or who failed to receive notice may be acquired by condemnation in subsequent condemnation proceedings. (41st Legis., 5th C.S., G.L., Ch. 7, Sec. 4.)

§ 55.302. Payment of Compensation and Damages

Compensation and damages awarded in condemnation proceedings shall be paid from the construction and maintenance fund of the district. (R. S. Art. 7723, sen. 2 (part).)

§ 55.303. Title Disputes and Appeals from Damage Assessments not to Suspend Work of District

The work of the district in connection with property to be acquired by condemnation may not be suspended because of delay in determining the rightful owner of the property or because of appeal from the finding and assessment of damages. (41st Legis., 5th C.S., G.L., Ch. 7, Sec. 3 (part).)

§ 55.304. Suits Against the District

If a district is sued for any property occupied by it or taken by it for any of its purposes or if sued for damages to the property, the court in which the suit is pending may determine all matters in dispute between the parties. On petition or cross-bill of the defendant, the court may consider condemnation of the property. (41st Legis., 5th C.S., G.L., Ch. 7, Sec. 5.)

[Sections 55.305–55.330 reserved for expansion]

SUBCHAPTER G. DISTRICT SURVEY**Section 55.331. District Engineer**

After the district is established and the members of the board have qualified, the board may employ an engineer for the district. (R.S. Art. 7686, sen. 1 (part), as amended.)

§ 55.332. Duties of the Engineer

The engineer shall make a complete survey of the land included in the district and make a map and profile of the canals, laterals, reservoirs, dams, and pumping sites located in the district and extending beyond the limits of the district. (R.S. Art. 7686, sen. 1 (part), as amended.)

§ 55.333. Maps

(a) The map shall show the name and number of each survey and the area in the district in number of acres. (R.S. Art. 7686, sen. 1 (part), as amended.)

(b) The map shall show the relation that each canal and lateral bears to each tract of land through which it passes and the shapes into which

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it divides each tract. If the canal or lateral cuts off any less than 20 acres from any tract, the map shall show the number of acres in the whole tract and the shape of the small tract and its relationship to the canal or lateral.

(c) The map shall show how much and what part of each tract can be irrigated by the canal or lateral.

(d) The profile map shall also show in detail the number of cubic yards which need to be excavated or moved to make the reservoir, canal, or lateral, and the specifications for other works necessary to the construction of improvements proposed for the district, and the estimated cost of each. (R.S. Art. 7687, sen. 1, 2 (part).)

§ 55.334. Adopting Old Surveys

(a) The engineer may adopt any surveys made in the past by any person who has applied for or appropriated any water for irrigation under state law.

(b) The engineer also may adopt any surveys for canals, laterals, reservoirs, dams, or pumping sites shown on these maps or plats or may adopt other maps, plats, and surveys which he is satisfied are correct. (R.S. Art. 7686, sen. 2, as amended.)

§ 55.335. Additional Improvements

If additional improvements of canals, ditches, laterals, reservoirs, or pumping plants are to be constructed, the report shall contain the detailed information with reference to these additional improvements. (R.S. Art. 7687, sen. 3 (part).)

§ 55.336. Existing Improvements

If the district contains any pumping plants, canals, dams, ditches, or reservoirs which the district is planning to acquire or purchase, the map or plat and the estimates required in this subchapter shall show these improvements and the price or probable price at which they may be acquired or purchased. (R.S. Art. 7687, sen. 3 (part).)

§ 55.337. Signing and Filing Engineer's Report, Map, and Profile

After the map, profile, specifications, and estimates are completed, the engineer shall sign them and file them with the secretary of the board. (R.S. Art. 7687, sen. 2 (part).)

§ 55.338. Maps and Data Unnecessary under Contract with United States

None of the maps and data prescribed by this subchapter are required under a contract with the United States except for maps and data needed to make assessments and levies. (R.S. Art. 7687, sen. 4.)

[Sections 55.339–55.350 reserved for expansion]

SUBCHAPTER H. WATER ASSESSMENTS**Section 55.351. Statement Estimating Water Requirements and Payment of Charge**

Each person desiring to receive water at any time during the year shall furnish the secretary of the board a written statement of the acreage he intends to irrigate and the different crops he intends to plant with the acreage of each crop. At the time the acreage estimate is furnished to the secretary, each person applying for water shall pay the portion of the water charge or assessment set by the board for immediate payment. If any person applying for water from the district does not furnish the statement of estimated acreage or does not pay the part of the water charge or assessment set by the board before the date for fixing the assessment, the district is not obligated to furnish water to that person during that year. (R.S. Art. 7751.)

§ 55.352. Assessments for Maintenance and Operating Expenses

The board, on or as soon as practicable after a date fixed by standing order of the board, shall estimate the expenses of maintaining and operating the irrigation system for the next 12 months. (R.S. Art. 7752, sen. 1, as amended.)

§ 55.353. Methods for Determining Maintenance and Operating Expenses

The board may make assessments for maintenance and operating expenses as provided in this subchapter on the basis of the quantity of water used. (R.S. Art. 7776, sen. 1 (part).)

§ 55.354. Distribution of Assessment

(a) Not less than one-third nor more than two-thirds of the estimated maintenance and operating expenses shall be paid by assessment against all land in the district to which the district can furnish water through its irrigation system or through an extension of its irrigation system. The assessments shall be levied against all irrigable land in the district on a per acre basis, whether or not the land is actually irrigated. The board shall determine from year to year the proportionate amount of the expenses which will be borne by water users under this subsection. (R.S. Art. 7752, sen. 2 (part), as amended.)

(b) The remainder of the estimated expenses shall be paid by assessments against persons in the district who use or who make application to use water. The board shall prorate the remainder as equitably as possible among the applicants for water and may consider the acreage each applicant will plant, the crop he will grow, and the amount of water per acre he will use. All persons using water to plant the same crop will pay the same price per acre for the water. (R.S. Art. 7752, sen. 2 (part), 3, as amended.)

§ 55.355. Notice of Assessments

(a) Public notice of all assessments shall be given by posting printed notices of the assessment in at least three public places in the district. (R.S. Art. 7753, sen. 2 (part).)

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(b) Printed notices shall be mailed to each landowner at the address which the landowner shall furnish to the board. (R.S. Art. 7753, sen. 2 (part).)

(c) The notice shall be posted in a public place and mailed to the landowner five days before the assessment is due, and notice of special assessments shall be given within 10 days after the assessment is levied. (R.S. Art. 7753, sen. 3.)

§ 55.356. Payment of Assessments

All assessments shall be paid in installments at the times fixed by the board. If a crop for which water was furnished by the district is harvested before the due date of any installment payment, the entire unpaid assessment becomes due at once and shall be paid within 10 days after the crop is harvested and before the crop is removed from the county or counties in which it was grown. (R.S. Art. 7752, sen. 4, as amended.)

§ 55.357. Collection of Assessments by Tax Assessor and Collector

(a) Under the direction of the board, the assessor and collector of taxes, or other person designated by the board, shall collect all assessments for maintenance and operating expenses made under the provisions of this subchapter. (R.S. Art. 7755, sen. 1 (part).)

(b) The assessor and collector of taxes shall give bond in an amount determined by the board, conditioned upon the faithful performance of his duties and accounting for all money collected. (R.S. Art. 7755, sen. 1 (part).)

(c) The assessor and collector of taxes shall keep an account of all money collected and shall deposit the money as collected in the district depository. He shall file with the secretary of the board a statement of all money collected once each week. He shall use duplicate receipt books, give a receipt for each collection made, and retain in the book a copy of each receipt, which shall be kept as a record of the district. (R.S. Art. 7755, sen. 2, 3.)

§ 55.358. Contracts with Person Using Water

(a) The board may require each person who desires to use water during the year to enter into a contract with the district which states the acreage to be watered, the crops to be planted, the amount to be paid for the water, and the terms of payment.

(b) The contract is not a waiver of the lien given to the district under Section 55.359 of this code against the crops of a person using water for the service furnished to him.

(c) If a person irrigates more land than his contract specifies, he shall pay for the additional service under the provisions of this subchapter. (R.S. Art. 7752, sen. 6 (part), 7, 8, as amended.)

(d) The directors also may require a person using water to execute a negotiable note or notes for all or part of the amount owed under the contract. (R.S. Art. 7752, sen. 6 (part), as amended.)

§ 55.359. Lien against Crops

(a) The district shall have a first lien, superior to all other liens, against all crops grown on each tract of land in the district to secure the

payment of the assessments, interest, and collection or attorney's fees. (R.S. Art. 7752, sen. 10 (part), 12 (part), as amended.)

(b) When the district obtains a water supply under contract with the United States, the board may, by resolution entered in their minutes and with the consent of the secretary of the interior, waive the lien in whole or in part. (R.S. Art. 7752, sen. 11, as amended.)

§ 55.360. List of Delinquent Assessments

Within 10 days after any assessment is due, the board shall post in a public place in the district a list of all persons who are delinquent in paying their assessments and shall keep posted a correct list of all delinquent assessments. If persons who owe assessments have executed notes and contracts as provided in Section 55.358 of this code, they shall not be placed on the delinquent list until after the maturity of the notes and contracts. (R.S. Art. 7752, sen. 16, as amended.)

§ 55.361. Water Service Discontinued

If a landowner shall fail or refuse to pay any water assessment when due, his water supply shall be cut off, and no water shall be furnished to the land until all back assessments are fully paid. The discontinuance of water service is binding on all persons who own or acquire any interest in land for which assessments are due. (R.S. Art. 7752, sen. 14 (part), 15, as amended.)

§ 55.362. Suits for Delinquent Assessments

Suits for delinquent water assessments may be brought either in the county in which the irrigation district is located or in the county in which the defendant resides. All landowners are personally liable for all assessments provided in this subchapter. (R.S. Art. 7752, sen. 13, 14 (part), as amended.)

§ 55.363. Interest and Collection Fees

(a) All assessments shall bear interest from the date payment is due at the rate of 10 percent a year. (R.S. Art. 7752, sen. 10 (part), as amended.)

(b) If suit is filed to foreclose a lien on crops or if a delinquent assessment is collected by any legal proceeding, an additional amount of 10 percent on unpaid principal and interest shall be added as collection or attorney's fees. (R.S. Art. 7752, sen. 12 (part), as amended.)

§ 55.364. Rights of the United States

If the board enters into a contract with the United States, the remedies in this subchapter available to the district also shall apply to enforce payment of charges due to the United States. The Reclamation Extension Act, approved August 13, 1914, and as amended, and all other federal reclamation laws apply. The directors shall distribute and apportion all water acquired by the district under a contract with the United States in accordance with acts of Congress, rules and regulations of the secretary of the interior, and provisions of the contract. (R.S. Art. 7752, sen. 17, 18, 19, as amended.)

§ 55.365. Surplus Assessments

If assessments made under this subchapter are more than sufficient to pay the necessary expenses of the district, the balance shall be carried over to the next year. (R.S. Art. 7753, sen. 1 (part).)

§ 55.366. Insufficient Assessments

If the assessments made under this subchapter are not sufficient to pay the necessary expenses of the district, the unpaid balance shall be assessed, pro rata, in accordance with the assessments made for the current year. The additional assessments shall be paid under the same conditions and penalties within 30 days from the date of assessment. (R.S. Art. 7753, sen. 1 (part).)

§ 55.367. Land not Subject to Assessments

If a district fails to furnish sufficient water to irrigate land in the district for two years after its organization, the nonirrigated land is relieved of all assessments and charges except taxes until the district constructs the necessary canals and furnishes the necessary water to irrigate the land. (R.S. Art. 7768.)

§ 55.368. Loans for Maintenance and Operating Expenses

The board may borrow money to pay maintenance and operating expenses at an interest rate of not more than 10 percent a year and may pledge as security any of its notes or contracts with water users or accounts against them. (R.S. Art. 7752, sen. 9, as amended.)

§ 55.369. Fixed Charges for Maintenance Expenses

If maintenance charges are based on the quantity of water used, a fixed charge may be made on all land or water connections entitled to receive and use water. An additional charge may be made, or a graduated scale adopted, for the use of more water than that covered by the minimum charge. The board may install proper measuring devices. (R.S. Art. 7776, sen. 1 (part), 2.)

§ 55.370. Charge to Cities and Towns

If a district includes a city or town or contracts with a city or town to supply water to it, the charge for the use of water and the time and manner of payment shall be determined by a standing order of the board. (R.S. Art. 7777.)

§ 55.371. Authority to Determine Rules and Regulations

The directors may adopt, alter, and rescind rules, regulations, and standing and temporary orders which do not conflict with the provisions of this chapter and which govern:

- (1) methods, terms and conditions of water service;
- (2) applications for water;
- (3) assessments for maintenance and operation;
- (4) payment and the enforcement of payment of the assessments;
- (5) furnishing of water to persons who did not apply for it before the date of assessment; and

(6) furnishing of water to persons who wish to take water for irrigation in excess of their original applications or for use on land not covered by their original applications. (R.S. Art. 7752, sen. 5, as amended.)

[Sections 55.372–55.400 reserved for expansion]

SUBCHAPTER I. SUPPLYING WATER TO MILITARY CAMPS

Section 55.401. Authority of Districts with Military Base to Issue Bonds

Any district operating under Article XVI, Section 59, of the Texas Constitution, which contains all or part of a United States military camp or base may issue negotiable revenue bonds to provide funds for acquiring or constructing filtration and pumping equipment, pipelines, and other facilities for supplying water to military camps or bases. (47th Legis., Ch. 510, Sec. 1, and Sec. 2, sen. 1 (part).)

§ 55.402. Bond Election

The district may issue negotiable revenue bonds with a total par value of not more than \$100,000 without the necessity of holding an election, but it may not issue bonds with a total par value of more than \$100,000 unless the bond issue is approved at an election held under the law governing bond elections. (47th Legis., Ch. 510, Sec. 2, sen. 1 (part), 2.)

§ 55.403. Interest Rate and Maturity Date

Bonds issued under this subchapter shall mature not more than five years after the date of issuance. (47th Legis., Ch. 510, Sec. 3.)

§ 55.404. Security for Bonds

(a) Bonds issued under this subchapter may be secured by all or part of the net revenue to be received from a contract for the sale of water by the district to the United States for use at military camps or bases and from all renewals, extensions, or substitutions of the contract. (47th Legis., Ch. 510, Sec. 4, sen. 1.)

(b) In addition, the bonds may be secured by a deed of trust lien on the equipment, facilities, and property acquired or constructed with the funds from the sale of the bonds. (47th Legis., Ch. 510, Sec. 4, sen. 2.)

§ 55.405. Approval; Registration

After bonds are authorized under this subchapter but before they are issued, the bonds, the resolution of the board authorizing the bonds to be issued, and other certificates and records relating to the issuance of the bonds shall be submitted to the Attorney General of Texas for his examination. The attorney general shall approve the bonds if they are issued in accordance with the provisions of this subchapter and the constitution, and the bonds shall be registered with the comptroller. (47th Legis., Ch. 510, Sec. 5, sen. 1, 2.)

§ 55.406. Validity of Bonds

After bonds are approved by the attorney general and registered with the comptroller, they shall be held valid and binding in any action, suit, or proceeding in which their validity is questioned. In any action

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brought to enforce collection of the bonds, the certificate of approval by the attorney general, or a certified copy of the certificate, shall be admitted as evidence of the validity of the bonds. The only defense which can be offered against the validity of the bonds is forgery or fraud. (47th Legis., Ch. 310, Sec. 5, sen. 3, 4, 5.)

§ 55.407. Payment of Bonds

The holder of bonds issued under the provisions of this subchapter is not entitled to payment of the bonds from funds derived from taxes levied on property in the district. (47th Legis., Ch. 510, Sec. 8.)

§ 55.408. Advertising for Bids

A contract for constructing or acquiring filtration and pumping equipment, pipelines, or other facilities to supply water to military camps or bases may be awarded only after advertising for bids for a period of time to be determined by the board. The advertisement for bids shall be published in a newspaper of general circulation in the district at least one time not less than 10 days before awarding the contract. (47th Legis., Ch. 510, Sec. 7.)

[Sections 55.409–55.420 reserved for expansion]

SUBCHAPTER J. GENERAL FISCAL PROVISIONS

Section 55.421. Construction and Maintenance Fund

The expenses, debts, and obligations incurred in creating, establishing, and maintaining the district shall be paid from the construction and maintenance fund. The construction and maintenance fund shall consist of money received by the district from the sale of bonds or from other sources provided by this chapter. (R.S. Art. 7711 (part).)

§ 55.422. Maintenance and Operating Fund

(a) The district shall create a maintenance and operating fund which shall consist of any money collected by assessment or other methods for the maintenance and operation of property owned by the district and for temporary rent owed to the United States.

(b) The district shall pay all operating expenses and any balance due on construction work, extensions, and improvements from the maintenance and operating fund with warrants executed in the manner provided in this chapter. (R.S. Art. 7714 (part).)

(c) If the district intends to enter into a contract with the United States for the construction of the irrigation system, the expenses, debts, and obligations may be paid from the maintenance and operating fund. (R.S. Art. 7711 (part).)

§ 55.423. District Vouchers

Except as provided in Section 55.112 of this code, vouchers issued by the district shall include a reference to the book and page number which authorize the expenditure and shall be signed by at least four members of the board. The vouchers shall be issued from a regular duplicate book containing a duplicate of the voucher, which shall be kept by the district. (R.S. Art. 7761, sen. 2, 3.)

§ 55.424. District Depository

(a) The board shall select a depository for the district in the manner provided for selection of a county depository, and the board, in selecting the depository, shall act in the same capacity and perform the same duties as provided by law for the county judge and county commissioners in selecting a county depository.

(b) The duties of the district depository shall be the same as provided by law for county depositories. (R.S. Art. 7757, sen. 1, 2, 3 (part).)

§ 55.425. Selecting a Bank as Depository in which a District Director Has an Interest

(a) If the highest and best bidder to become the district depository is a bank in which a district director is a stockholder or a director, the remaining members of the board, if they constitute a majority, may select the bank as the district depository and approve the bond.

(b) Before the order of the board selecting the bank as the depository and approving the bond is effective, a copy of the order must be filed with and approved by the county judge in the county in which the district is located. The approval of the county judge shall make the order final.

(c) If the county judge fails to approve the depository selected or the bond, the bank will not become the district depository, and new bids shall be requested and another bank selected as district depository. (R.S. 7757, sen. 3 (part).)

§ 55.426. Report of the District Depository

(a) The district depository shall make a report each month of money it receives and pays out on behalf of the district. This report together with the vouchers shall be filed in the district's records which are in the depository's vault, and a copy of the report shall be furnished to the district's board.

(b) The report shall be available for inspection by taxpayers and residents of the district.

(c) The records shall be kept as property of the district and shall be delivered to the successor of the depository. (R.S. Art. 7758.)

§ 55.427. District Records and Accounts

The board shall keep a record of its meetings and proceedings and shall have a complete book of accounts kept for the district. (R.S. Art. 7756 (part); R.S. Art. 7761, sen. 4 (part).)

§ 55.428. Protection and Custody of Records and Documents

The board shall keep the contracts, records and notices, duplicate vouchers, duplicate receipts, and accounts and records of the district in a fireproof vault or safe, and shall deliver them to their successors in office. These records and other documents are the property of the district. (R.S. Art. 7756 (part).)

§ 55.429. District Audit

(a) Except as provided in Subsection (c) of this section, on September 1 of each year the board shall select a competent auditor for the district who shall file an audit report by November 1 of each year.

(b) The auditor shall examine the accounts, books, and reports of the depository, the assessor and collector, and the board and shall include a full report of his findings in the audit report. A copy of the report shall be filed with the depository, the board and the county clerk of the county in which the district is located.

(c) In districts which adopt the calendar year as the fiscal year, the auditor shall be appointed by January 15 following the end of the year and his report shall cover the preceding calendar year. (R.S. Art. 7761, sen. 4 (part), 5; 39th Legis., Ch. 152, Sec. 6 (part).)

§ 55.430. Adopting the Calendar Year as the Fiscal Year

The board, by an order entered in its minutes, may adopt the calendar year as the fiscal year, and in districts adopting the calendar year, the board's annual report shall cover the calendar year, and shall be filed by January 30th of the succeeding year. (39th Legis., Ch. 152, Sec. 6 (part).)

[Sections 55.431–55.450 reserved for expansion]

SUBCHAPTER K. BORROWING MONEY

Section 55.451. District May Incur Debt for District Purposes

(a) The district may incur debt evidenced by contract, notes, warrants, or bonds to pay any debt or obligation incurred for any lawful purpose.

(b) The purposes for which debt may be incurred, include:

(1) purchasing, constructing, securing, or acquiring any reservoir, rights-of-way, water rights, and any property, plants, and improvements;

(2) carrying out any of the purposes for which the district was created;

(3) maintaining and operating property, plants, and improvements of the district; and

(4) constructing repairs, extensions, and other improvements on the property. (R.S. Art. 7622, sen. 3 (part); 43rd Legis., Ch. 131, Sec. 1.)

§ 55.452. Adopting Method for Payment of Debts

(a) When a district incurs a debt or obligation, it shall provide for payment of the debt or obligation by levying, assessing, and collecting either a general ad valorem tax or a tax on a benefit basis.

(b) Any district which has previously issued bonds or obligations payable on either basis may adopt a different basis of taxation in the creation of an additional debt or obligation.

(c) Each debt or obligation shall be paid in the manner provided at the time it was incurred. (43rd Legis., Ch. 131, Sec. 2, sen. 1, 2, 3, 4.)

§ 55.453. Election

(a) Before any debt is incurred under this subchapter, the district shall submit to the voters of the district the proposition of whether or not the debt should be created. The proposition shall also state the method of taxation to be used to pay principal and interest on the debts.

(b) Notice of the election and the conduct of the election shall be in the manner provided by law for holding elections in the district.

(c) The proposition is adopted if it is approved by a majority of the persons voting in the election. (43rd Legis., Ch. 131, Sec. 1.)

§ 55.454. Incurring Debt without Voter Approval

None of the provisions of this subchapter shall prevent the board from creating any debt or obligation without voter approval if the debt or obligation is created to defray ordinary maintenance and operating expenses or if the debt or obligation is to be retired from current revenues. (43rd Legis., Ch. 131, Sec. 2, sen. 5.)

§ 55.455. Taxes on Uniform Basis

(a) Any district which has the principal function of furnishing water for irrigation in the district may provide for the payment of principal and interest on any debts or obligations by levying taxes on land in the district on an equal or uniform basis with an equal charge per acre on each acre of land to be irrigated.

(b) The tax collector shall prepare a special tax roll showing each tract of land in the district, the number of acres in each tract, the total assessment of benefits on each tract, and the amount to be paid each year on each tract, and the roll shall be prepared or amended annually. Each owner shall make a rendition of his property to the tax collector.

(c) The tax roll shall be examined, corrected, and approved by the board of equalization of the district.

(d) The property shall be rendered and assessed for taxation and the tax roll prepared at the time and in the manner provided by law. The valuation fixed on property shall be the assessment charge against each acre of land at the time the debt or obligation is incurred. (43rd Legis., Ch. 131, Sec. 3.)

§ 55.456. Obtaining Loan when Bonds Cannot Be Sold

If the district has any bonds which were issued under the provisions of this code but which cannot, in the opinion of the board, be sold on terms which are advantageous to the district, the district may obtain a loan in an amount of not more than the amount of the unsold bonds. The money may be used for any of the purposes for which the bonds were issued, and the bonds may be pledged as a guarantee or assurance that the loan will be paid. The amount of bonds pledged may not exceed the amount of the loan by more than 15 percent. (43rd Legis., Ch. 131, Sec. 8.)

§ 55.457. Using Revenue from Sale of Water, Power, and Other Services to Pay Debts

(a) The district may fix charges for the use and sale of water, power, and other services to pay debts and to accomplish other lawful purposes of the district.

(b) The district may borrow money for any purpose in the manner provided in this subchapter and pledge for payment of these debts, income and revenue from the sale of water, power, and other services sufficient in amount to pay principal, interest, and other charges which may accrue. (43rd Legis., Ch. 131, Sec. 6.)

§ 55.458. Loan Fund

(a) The board may pay or contract to pay on any bonds which it has sold or pledged, in addition to taxes, other funds derived from:

- (1) water charges for use of water in the district;
- (2) sale or supply of water to any city, town, municipal corporation, district, or land or user of water outside the boundaries of the district;
- (3) sale of water to any commercial or industrial enterprise;
- (4) sale of hydroelectric power; or
- (5) any or all of these sources of revenue.

(b) The board shall fix the amount to be derived from these sources for this purpose and shall enforce and collect it in the same manner provided to collect charges or assessments for maintenance and operation. All liens and remedies provided by law to secure and enforce the collection of charges and assessments for maintenance and operation of the district are applicable to securing and enforcing the collection of these funds.

(c) Money collected under this section shall be kept in a separate fund called the "loan fund" and shall be used only for the purpose of paying the principal and interest on the bonds for as long as the bonds remain unpaid.

(d) The charge created by this section is an additional and distinct charge and a source of income of the district over and above its income for maintenance and operation and other purposes.

(e) After the loan fund is created and pledged, the action of the board in fixing the amount of the charge and in fixing the total annual charges for maintenance and operation may not be reviewed by the Texas Water Rights Commission regardless of any law to the contrary. (43rd Legis., Ch. 131, Sec. 9.)

[Sections 55.459–55.490 reserved for expansion]

SUBCHAPTER L. ISSUANCE OF BONDS

Section 55.491. Bond Election

After the district is created, the members of the board are qualified, the maps, profiles, specifications, and estimate are filed, and after the assessor and collector has made and returned the assessment roll, the board may order a bond election to be held in the district at the earliest possible legal time. (R.S. Art. 7688, sen. 1 (part).)

§ 55.492. Content of Notice

(a) The notice of the election shall include:

- (1) the maximum amount of bonds to be issued;
- (2) the maximum interest rate on the bonds;
- (3) the maximum maturity date of the bonds;
- (4) a summary of the engineer's estimate of the cost of constructing proposed improvements and purchasing existing improvements with additions;
- (5) a substantial statement of the proposition; and
- (6) the time and place or places for holding the election.

(b) If the election is for the purpose of voting on a contract with the United States, the notice shall include the maximum amount of money to be paid for construction purposes exclusive of penalties and interest. (R.S. Art. 7689, sen. 1 (part); R.S. Art. 7690, sen. 1 (part), 2, 3.)

§ 55.493. Publication of Notice

The secretary of the board, on order of the board, shall post notice of the bond election at the courthouse door in the county in which the district is located and at four public places in the district for at least 20 days before the day of the election. Also, the secretary shall publish the notice in the manner provided in Section 55.609 of this code. (R.S. Art. 7689, sen. 1 (part), 2, 3.)

§ 55.494. Conduct of Bond Election

The board shall select a polling place in each voting precinct or part of a voting precinct located in the district and shall appoint two judges, one of whom shall be the presiding judge, and two clerks for each polling place designated in the order. (R.S. Art. 7691, sen. 3 (part).)

§ 55.495. Ballots

(a) The board shall provide one and one-half times as many ballots for the election as there are qualified property taxpaying electors in the district as shown on the county tax rolls.

(b) The ballots shall be printed to provide for voting for or against the following proposition: "The issuance of bonds and the levy of a tax to pay for the bonds." This is the only proposition which may appear on the ballot.

(c) If the election is for the purpose of voting on a contract with the United States, the ballots shall be printed to provide for voting for or against the following proposition: "The contract with the United States and levy of taxes to make payments under the contract." This is the only proposition which may appear on the ballot. (R.S. Art. 7691, sen. 3 (part), 4, 5.)

§ 55.496. Returns; Result

(a) Immediately after the election, the presiding judge of each polling place shall transmit to the secretary of the district the result of the election in the manner provided by law for general elections. The secretary shall keep the results in a safe place and deliver them together with the returns from each polling place to the board.

(b) At a regular meeting or special meeting the board shall canvass the returns and declare the result of the election.

(c) If the canvass of the returns shows that the bond issue or the contract with the United States and the tax levy were approved, the board shall declare the result to be in favor of the proposition and shall enter the results in the minutes. (R.S. Art. 7693, sen. 1, 3.)

§ 55.497. Necessary Vote

(a) In a district operating under the authority of Article III, Section 52, of the Texas Constitution, a two-thirds vote of persons voting in the election is required to adopt a proposition to issue bonds or to enter into a contract with the United States.

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(b) In a district operating under the authority of Article XVI, Section 59, of the Texas Constitution, a majority vote of persons voting in the election is required to adopt a proposition to issue bonds or to enter into a contract with the United States. (R.S. Art. 7693, sen. 2.)

§ 55.498. Ordering Issuance of Bonds

After the vote is canvassed and a favorable result is declared, the board shall make and enter an order authorizing the issuance of bonds or the execution of a contract with the United States. (R.S. Art. 7694 (part).)

§ 55.499. Amount of Bonds

The bonds shall be sufficient in amount to pay for the proposed improvements together with necessary incidental expenses connected with the improvements, but the amount shall not be more than the amount specified in the order and notice of election. The total amount of the bonds shall include:

- (1) the amount of the engineer's estimate;
- (2) incidental expenses;
- (3) organization expenses; and
- (4) cost of additional work caused by any change or modification made by the directors. (R.S. Art. 7689, sen. 1 (part); R.S. Art. 7694 (part).)

§ 55.500. Limitation of Indebtedness

In districts organized under Article III, Section 52, of the Texas Constitution, the amount of bonds or the amount of the contract indebtedness with the United States may not be more than one-fourth of the actual assessed value of the real property in the district as shown by an assessment made for this purpose or by the last annual assessment made under this chapter. This limitation does not apply to districts operating under the authority of Article XVI, Section 59, of the Texas Constitution. (R. S. Art. 7696.)

§ 55.501. Special Interest Procedure

(a) The maximum amount of bonds issued by a district may include a sufficient sum to pay the first one, two, or three years' interest to accrue on the bonds, and no taxes shall be levied against property located in the district for this period except for a sufficient tax to pay notes provided for in Section 55.038 of this code.

(b) The board may designate the period of interest to begin either with the date of the bonds fixed in the order which authorizes their issuance or from the date or dates of the actual sale, issuance, and delivery of the bonds or any installments.

(c) Any money left in the interest fund at the end of the designated period still may be used to pay interest on the bonds. (R.S. Art. 7695, sen. 1, 2, as amended.)

§ 55.502. Formal Requirements of Bonds

(a) The board shall issue bonds in the name of the district, and the president shall sign the bonds, the secretary shall attest to them, and the district's seal shall be impressed on them.

(b) The bonds shall be issued in denominations of not less than \$100 nor more than \$1,000 each.

(c) The bonds shall be payable annually or semiannually and shall mature not more than 40 years after they are issued.

(d) The bonds may be issued to mature in serial form at any date which does not come later than the date specified in the notice of election and may bear any rate of interest which is not more than the rate of interest specified in the notice.

(e) The terms of the bonds shall include the time, place, manner, and conditions of payment and the interest rate which are ordered by the board. (R.S. Art. 7690, sen. 1 (part); R.S. Art. 7700.)

§ 55.503. Texas Water Rights Commission to Investigate and Report on Districts Issuing Bonds

(a) The Texas Water Rights Commission shall investigate and report on the organization and feasibility of all districts issuing bonds under Texas law.

(b) Any district which desires to issue bonds shall submit to the commission a written application for investigation, together with a copy of the engineer's report and a copy of the data, profiles, maps, plans, and specifications prepared in connection with the report.

(c) The commission shall examine these documents and shall visit the project and carefully inspect it, and may request and shall be supplied with additional data and information necessary to a reasonable and careful investigation of the project and proposed improvements.

(d) The commission shall file in its office written suggestions for changes and improvements and furnish a copy to the board of directors of the district.

(e) If the commission finally approves or refuses to approve the project or the issuance of the bonds for any improvement, it shall make a full written report, file the report in its office, and furnish a copy of the report to the board of directors of the district. (R.S. Art. 7799.)

§ 55.504. Suit to Determine Validity of Bonds or Contract

(a) Before any bonds are offered for sale, the district shall bring suit in any district court within the judicial district in which the district is located or in any district court in Travis County to determine the validity of the bonds. On request of the secretary of interior, any district entering into a contract with the United States shall bring suit in one of the same courts to determine the validity of the contract.

(b) The action shall be in the nature of a proceeding in rem, and jurisdiction over all interested parties may be obtained by publishing notice once a week for at least two consecutive weeks in a newspaper with general circulation in the county in which the district is located. If there is no newspaper published in the county, the notice shall be published in the county nearest to the district in which a newspaper is published. (R.S. Art. 7703, sen. 1, 2.)

§ 55.505. Notice to Attorney General

(a) Notice of a validation suit shall be served on the attorney general in the manner provided for serving a notice in civil suits. (R.S. Art. 7703, sen. 3.)

(b) The attorney general may waive service if he is furnished a full transcript of the proceedings held in the formation of the district and held in connection with the issuance of the bonds or the authorization of the contract with the United States and is furnished a copy of the contract. (R.S. Art. 7704.)

§ 55.506. Attorney General to Examine Proceedings and File Answer Tendering Issue

The attorney general shall make a careful examination of the district's organizational proceedings and proceedings held in connection with the issuance of bonds or the authorization of a contract with the United States and shall require any further evidence and make any further investigation he considers necessary. The attorney general shall then file an answer tendering the issue of whether or not the bonds are legal and binding obligations of the district or whether or not the contract with the United States is legal and binding on the district. This issue shall be tried and determined by the court and a judgment entered on the finding. (R.S. Art. 7705, sen. 1, 2, 3.)

§ 55.507. Right of Persons to Intervene and Participate in Suit

At the trial of a validation suit the court may permit persons having an interest in the issues to be determined to intervene and participate in the trial of the issues. (R.S. Art. 7705, sen. 4.)

§ 55.508. Suits to Have Preference

Suits brought under the provisions of this subchapter have preference over all other actions so that the matters involved may have a speedy determination. (R.S. Art. 7705, sen. 5.)

§ 55.509. Judgment Rendered

(a) If the judgment of the court in a validation suit is against the district, the district may accept the judgment and may correct the error pointed out in the proceedings in the manner directed by the court.

(b) After the corrections are made, the judgment of the court shall be rendered showing that the corrections have been made and that the bonds or the contract is a binding obligation on the district.

(c) The final judgment, when it is entered, is res judicata in any case arising in connection with the bonds or their interest or in connection with the collection of money required under the contract with the United States and in all matters relating to the validity of the organization of the district, the district's bonds, or the contract with the United States. (R.S. Art. 7706.)

§ 55.510. Court's Decree

(a) After the district court enters a final judgment in a validation suit, the clerk of the court shall make a certified copy of the decree which shall be a part of the orders and decree connected with the election.

(b) The court's decree shall be filed with the comptroller and he shall record the decree in a book kept for that purpose.

(c) The certified copy of the decree or a certified copy of the record made by the comptroller shall be received as evidence in any litigation

which may affect the validity of the bonds or contract with the United States and shall be conclusive evidence of the validity. (R.S. Art. 7707.)

§ 55.511. Registration of Bonds

On presentation of the bonds together with a certified copy of the court's decree, the comptroller shall register the bonds and the decree in a book provided for that purpose. The comptroller shall attach to each bond a certificate of the fact that the court's decree has been filed with him. The certificate shall be signed by the comptroller and shall have his seal attached to it. (R.S. Art. 7708.)

§ 55.512. Bond Book

The commissioners court of the county in which the district is located shall provide a well-bound book in which a list of the bonds shall be kept by the county clerk. The book shall include the numbers of the bonds, the rate of interest, the date of issue, the date due, and the place where the bonds are to be paid. The book is a public record. (R.S. Art. 7709.)

§ 55.513. County Clerk's Fees

The county clerk is entitled to receive:

- (1) for registering the bonds, 10 cents for each bond which is registered;
- (2) for entering the payment of a bond, 10 cents; and
- (3) for recording district instruments required to be recorded and for which no fee is provided, the same fees provided by law for recording deeds. (R.S. Art. 7771.)

§ 55.514. Sale of Bonds

(a) After the bonds are issued and registered by the comptroller, the board shall offer the bonds for sale and shall sell them on the best terms and for the best possible price.

(b) After all the bonds are sold, the board shall pay to the district depository all money received from the sale.

(c) The board may exchange the bonds for property to be acquired by purchase under contract or in payment of the contract price for work to be done for the use and benefit of the district. (R.S. Art. 7710.)

§ 55.515. Emergency Loans and Interim Bonds

(a) The district may create emergency loans and issue interim bonds for the purposes, in the manner, and under the restrictions and limitations provided in Sections 51.444–51.449 of this code.

(b) It is the purpose of this section to confer on the district the same power and authority with respect to emergency loans and issuance of interim bonds as that conferred by law on water control and improvement districts. (41st Legis., 2nd C.S., G.L., Ch. 69, Sec. 1.)

§ 55.516. Tax Levy

(a) After bonds have been voted, the board shall levy a tax on all property in the district sufficient to pay the interest on the bonds together with an additional amount to be placed in the sinking fund to discharge and redeem the bonds at maturity, and the board shall annually

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levy or have assessed and collected taxes on all property in the district sufficient to pay for the expenses for assessing and collecting the taxes.

(b) The board may issue the bonds in serial form or to be paid in installments.

(c) The tax levy shall be sufficient to pay the interest on the bonds, to meet the proportional amount of the principal of the next maturing series of the bonds, and to pay expenses of assessing and collecting the taxes for the year.

(d) If a contract is entered into with the United States, the board shall levy a tax sufficient to meet all installments as they are due and to pay interest. The directors shall make an annual levy until the contracts and obligations are discharged. (R.S. Art. 7712.)

§ 55.517. Adjustment of Tax Levy

The tax which is levied in connection with the original bond issue shall remain in force for that purpose until a new levy is made. The board may, from time to time, increase or diminish the tax for the purpose of adjusting the tax to the taxable values of taxable property in the district and the amount to be collected, and the increase or decrease in the tax shall be sufficient to provide enough money in the interest and sinking fund to make annual payments on outstanding bonds. (R.S. Art. 7769.)

§ 55.518. Interest and Sinking Fund

(a) The district shall have an interest and sinking fund which shall consist of all taxes collected under the provisions of this chapter for this fund.

(b) Money in the interest and sinking fund shall be paid out only:

(1) to satisfy and discharge interest on the bonds;

(2) to pay the bonds;

(3) to defray the expense of assessing and collecting the tax; and

(4) to pay principal and interest due to the United States under a contract with the district under which bonds have not been deposited with the United States.

(c) The board shall order money from the fund to be paid out by warrants drawn as provided in this chapter. When funds are paid out, the depository shall receive and cancel the interest coupon or bond paid, and the interest coupon or bond shall be delivered to the board to be cancelled and destroyed. (R.S. Art. 7713.)

§ 55.519. Investment of Sinking Funds

The board may invest sinking funds of the district in bonds of the United States, the State of Texas, any county, any incorporated city or town, any independent school district, or any school district authorized to issue bonds, or they may invest the funds in irrigation or water improvement bonds. The board may not purchase any bonds which under their terms would mature subsequent to the maturity date of bonds for which the sinking fund was created. (R.S. Art. 7770.)

§ 55.520. Refunding Bonds

(a) The board of a district which has issued bonds under the provisions of this chapter, by resolution, may issue refunding bonds to replace the original bonds. The refunding bonds may be issued in any amount, in

any denomination, and for any period of maturity and may bear any rate of interest provided in the board's resolution.

(b) The refunding bonds shall be issued subject to the limitations provided in this subchapter for the issuance of bonds.

(c) The refunding bonds may be exchanged for the original bonds at the original bonds' face value or at a discount, or the refunding bonds may be sold and the net proceeds applied to the purchase of the original bonds at face value or at a discount. (R.S. Art. 7773, sen. 1, 2, 6 (part).)

§ 55.521. Registering Refunding Bonds

(a) The comptroller may not register any refunding bonds until the original bonds for which the refunding bonds are issued are presented to him for cancellation or until a contract for the purchase of a corresponding number of the original bonds has been entered into and filed with the comptroller.

(b) After the refunding bonds are registered, the comptroller shall keep them in his possession until the original bonds are surrendered to him and cancelled by him, at which time he shall deliver the new bonds to the proper party or parties.

(c) The original bonds may be presented for payment in installments and an equal amount of refunding bonds registered and delivered as provided in this subchapter. (R.S. Art. 7773, sen. 3, 4.)

§ 55.522. Issuing Refunding Bonds for the Same Amount and with the Same Maturity Date as the Original Bonds

(a) Refunding bonds for the same amount and with the same maturity date as the bonds which they are to replace may be authorized by resolution of the board and issued without an election to approve them.

(b) These refunding bonds shall be registered by the comptroller in the manner provided in Section 55.521 of this code after a copy of the resolution providing for the issuance of the refunding bonds and the cancellation of the original bonds is filed with the comptroller.

(c) After the original bonds are cancelled and the refunding bonds are registered by the comptroller, the refunding bonds are valid and binding obligations of the district without further proceedings and have the same force, validity, and effect as the original bonds which they have replaced. (R.S. Art. 7773, sen. 5.)

§ 55.523. Issuing Refunding Bonds which Place a Greater Burden on the District

If the district issues refunding bonds for a greater amount, for a greater rate of interest, or for a longer period of maturity than the bonds which they are to replace or if the refunding bonds in any other respect create a greater burden on the district, the district shall submit the question of whether or not it should issue the refunding bonds to the voters of the district. (R.S. Art. 7773, sen. 6 (part).)

§ 55.524. Law Governing Refunding Bonds

(a) The provisions of this subchapter governing the election and the issuance, approval, validation, registration, and sale of bonds shall apply to refunding bonds.

(b) Refunding bonds shall be registered and delivered in the manner provided in Section 55.521 of this code. (R.S. Art. 7773, sen. 6 (part), 7.)

§ 55.525. Limiting District's Power to Incur Debt

(a) The board of any district operating under the provisions of Article XVI, Section 59, of the Texas Constitution, may limit the power of the district to incur debt and issue bonds in the manner provided by this subchapter.

(b) The board may adopt a resolution declaring that for a period of not more than 10 years the district may not issue bonds in excess of 25 percent of the assessed value of taxable property of the district according to the last assessment for district purposes. (R.S. Art. 7795, sen. 1, 2 (part).)

§ 55.526. Notice of Limitation of Debt

Once a week for two consecutive weeks in a newspaper published in the district, the board shall publish notice of the adoption of a resolution to limit the district's power to incur debt. The notice shall state that the resolution will take effect unless a petition against the proposed limitation signed by 10 percent of the qualified property taxpaying electors of the district is presented within 30 days after the first publication of notice. (R.S. Art. 7795, sen. 2 (part).)

§ 55.527. Limitation Election

(a) If a petition is filed under Section 55.526 of this code, the limitation of the power to incur debt will not take effect unless it is approved at a general or special election held in the district. The election will be held in the manner provided for holding other general and special elections in the district.

(b) The ballots for the election shall be printed to provide for voting for or against the following proposition: "Limiting during the term of _____ years, the maximum debt of the district to 25 percent of the assessed value of the real property." (R.S. Art. 7795, sen. 3, 4.)

§ 55.528. Operating under a Limitation on Power to Incur Debt

(a) If no petition is presented under Section 55.526 of this code or if the limitation on the power to incur debt is approved at the election, the district, during the limitation period, may not issue bonds under any statute or the constitution in excess of the limited amount except to complete construction work for which bonds may be issued within the limitation.

(b) The board shall issue bonds in excess of the limitation to complete these works only after the Texas Water Rights Commission has approved the plans and specifications of the original and uncompleted works together with the estimates of their cost. (R.S. Art. 7795, sen. 5.)

§ 55.529. Issuing Bonds in Excess of Debt Limitation

(a) If the plans, specifications, and estimates under Section 55.528 of this code are approved by the Texas Water Rights Commission, the district shall publish notice once a week for three weeks that it intends to issue bonds in excess of the debt limitation to complete the works. The notice shall include the amount of the proposed bond issue and the time when a hearing will be held.

(b) The hearing to issue the additional bonds shall be held not less than 30 days from the date of the first publication of notice, and any property taxpayer, bondholder or other creditor, or interested person may appear and be heard.

(c) If the determination after the hearing is to issue the bonds in the amount stated in the notice, the question of whether or not the bonds should be issued shall be submitted to the voters of the district at an election held in the manner provided by law. (R.S. Art. 7795, sen. 6, 7, 8.)

§ 55.530. Additional Projects for the District

(a) After district bonds have been authorized or issued or after a contract with the United States has been authorized or executed, if the board thinks it is necessary, it may authorize:

- (1) modifications in the district and its improvements;
- (2) purchase or construction of additional improvements and issuance of additional bonds based on the engineer's report; or
- (3) a supplemental contract with the United States.

(b) Before any of the projects under Subsection (a) of this section are undertaken, the board shall enter its findings in the minutes and shall give notice that an election will be held to approve the issuance of bonds or the execution of a contract with the United States. The election shall be held within the time and the returns made and the result determined in the same manner provided for the original bond election. (R.S. Art. 7697.)

§ 55.531. Issuance of Additional Bonds

(a) If an election held under Section 55.530 of this code favors the issuance of additional bonds or execution of a contract with the United States, the board may issue the bonds or negotiate and execute a supplemental contract with the United States in the manner provided in this chapter.

(b) If a contract is made with the United States under Section 55.185 of this code and bonds are not deposited with the United States, the district is not required to issue bonds, and if the district is required to raise funds in addition to the amount of the contract, the district shall issue the bonds only for the additional amount which is needed. (R.S. Art. 7698.)

§ 55.532. Funds to Repair Damaged Improvements

(a) If improvements of the district are damaged, the district may issue bonds or notes to secure funds to repair the damage.

(b) The district's notes may not be for a term of more than 20 years. The board may issue the notes in serial form to mature in installments.

(c) Before the notes are issued, the board shall order an election to be held to approve the issuance of the notes and shall give notice of the election in the manner provided for bond elections. The notice shall include the purpose for which the notes are being issued, the rate of interest, the term of the notes, and the time and place of the election.

(d) The ballots for the election shall be printed to provide for voting for or against the following proposition: "Issuance of notes."

(e) The election shall be held and returns made and canvassed in the manner provided for bond elections.

(f) If two-thirds of the persons voting in the election vote in favor of issuing the bonds, the board may issue and sell the bonds for the benefit of the district.

(g) When the notes are issued or sold, the board shall levy a tax to pay interest on the bonds and to create a sinking fund sufficient to pay the interest and the notes before they mature. (R.S. Art. 7699, as amended.)

§ 55.533. Preferred Lien in Favor of the United States

A lien for the payments due the United States under a contract between the district and the United States under which bonds have not been deposited with the United States shall be a preferred lien to that of any issue of bonds or any series of any issue of bonds subsequent to the date of the contract. (R.S. Art. 7701.)

§ 55.534. Default in Paying Principal and Interest on Bonds by a District Obtaining Its Water Supply from the United States

(a) If a district which obtains its water supply from the United States defaults in the payment of principal and interest on bonds issued by the district, the board, if it considers it advisable, may authorize the issuance of bonds to fund or refund the debt including bonds, debt and accrued interest on debt, and interest on notes lawfully issued to pay for construction or acquisition of irrigation and drainage works.

(b) Before any bonds are issued under this section, the district shall submit to the voters of the district the question of whether or not the bonds should be issued.

(c) The board may issue the bonds either in serial form or in a form which provides for annual payment of principal and interest in a single amount, represented by coupons, and the board may prescribe the form and contents of the bonds and coupons. Amortization of both principal and interest on the bonds shall be accomplished in not more than 40 years from the date the bonds are issued.

(d) If bonds are issued in serial form, they shall be numbered consecutively beginning with one and continuing in numerical order. The bonds shall mature serially in annual amounts which are approximately equal. The board may set the bonds to not less than 5 years not more than 40 years.

(e) If the bonds provide for the annual payment of principal and interest in a single amount which is represented by coupons, the coupons for the first five years may be for any amount which in the judgment of the board is economically sound and within the ability of the district to pay. For the remainder of the term of the bonds, the coupons shall be paid annually in equal amounts which are sufficient to liquidate the remainder of the bonds within 40 years from the date the bonds were issued.

(f) Any funding or refunding bonds issued under this section shall be negotiable.

(g) The district is not bound by the provisions of Sections 55.504-55.505 of this code, and the exercise of the provisions of those sections is left to the discretion of the board. If a suit is instituted, the suit is subject to the provisions and governed by the statutes relating to these suits.

(h) Except as otherwise provided in this section, the laws governing the issuance of bonds and the form and contents of bonds shall apply to bonds issued under this section. (R.S. Art. 7700—a, as amended.)

[Sections 55.535-55.580 reserved for expansion]

SUBCHAPTER M. AD VALOREM TAXATION**Section 55.581. Assessor and Collector to Make Assessment**

As soon as the assessor and collector has qualified, he shall make an assessment of all taxable property in the district and shall make another assessment each year. (R.S. Art. 7658.)

§ 55.582. Assessment Date

The assessment shall be made on all taxable property in the district on January 1 of each year and shall be completed and the lists and books ready for delivery on or before June 1 of each year. (R.S. Art. 7672.)

§ 55.583. Contents of Assessment

- (a) Each assessment shall be made on blanks provided by the board.
- (b) The assessment shall include a full statement of all taxable property in the district which is owned by the party who renders it and a statement of the value of the property.
- (c) An affidavit made by the owner or agent rendering the property shall be attached to the assessment. The affidavit shall state that the assessment or rendition contains a true and complete statement of all property which is owned by the person who is making the rendition and which is subject to district, county, and state taxation.
- (d) In addition to assessments or renditions made by the property owners or agents of property owners, the assessor and collector shall make a similar list of all property in the district subject to county and state taxation which has not been rendered for taxation. (R.S. Art. 7659.)

§ 55.584. Rendition of Taxable Property

- (a) Each person who owns taxable property in the district shall render the property for taxation. The property owner shall make the rendition on or before June 1 of each year unless the assessor and collector requests it before that date.
- (b) Civil and penal laws relating to securing the rendition of property for state and county taxes and providing penalties for failure to render the property apply to all persons owning or holding property in the district.
- (c) The assessor and collector may administer oaths to carry out fully the provisions of this section. (R.S. Art. 7660.)

§ 55.585. Board of Equalization

- (a) The board, at its first meeting or as soon after its first meeting as practicable, shall appoint three commissioners to compose the board of equalization for the district. The board shall appoint members to the board of equalization on an annual basis, and any person appointed shall be an elector of the district.
- (b) At the meeting at which the initial commissioners are appointed, the board shall set the time for the first meeting of the board of equalization, and the board of equalization shall meet at this time to receive the assessment lists or books of the assessor and collector for examination, correction, equalization, appraisal, and approval.

(c) The secretary of the board of directors shall act as secretary of the board of equalization at all its meetings and shall keep a permanent record of all the proceedings.

(d) Instead of appointing the board of equalization under Subsection (a) of this section, the board, at its option, may enter on its minutes a resolution constituting itself as the board of equalization for the district. The board of equalization constituted under this subsection shall have the same powers, duties, and responsibilities delegated to a board of equalization constituted under Subsection (a) of this section. (R.S. Art. 7661, as amended.)

§ 55.586. Oath

Before assuming the duties of the board of equalization, each member shall subscribe to the following oath: "I _____ do solemnly swear (or affirm) that I will, to the best of my ability, make a full and complete examination, correction, equalization, and appraisal of all property contained in the district, as shown by the assessment lists or books of the assessor and collector of the district, and add thereto all property not included therein of which I have knowledge." The secretary shall enter the oath in the minutes. (R.S. Art. 7662.)

§ 55.587. Compensation of Board of Equalization and Secretary

Members of the board of equalization and secretary to the board of equalization are entitled to receive the compensation for their services which is fixed by the board. The compensation for each person may not be more than \$6 a day for the time he actually engages in the discharge of his duties. (R.S. Art. 7668.)

§ 55.588. Examination and Correction of Assessment Lists

(a) The board of equalization shall have the assessor and collector furnish all the assessment lists or books for the district so that the board may examine them to determine that each person has rendered his property at full value.

(b) The board of equalization may send for persons and papers and may administer oaths and qualify persons to testify in an effort to determine the value of the property.

(c) If the board of equalization finds that the property valuation is too high, it shall lower the valuation; and if the board of equalization finds that the property valuation is too low it shall raise the valuation.

(d) The board of equalization may correct any errors that appear on the assessor and collector's lists or books and may add any property which was omitted. (R.S. Art. 7663.)

§ 55.589. Determination of Assessment and Appeal

(a) The board of equalization shall equalize the value of all property in the district as nearly as possible. In making the determination, the board shall consider the location of the property and the improvements situated on the property.

(b) Before final action is taken by the board of equalization, any person may file a complaint to the assessment of his or any other person's property. The board of equalization shall hear the complaint, and the complainant may examine witnesses to sustain the complaint to the as-

assessment of the property or the failure to render any property which has not been properly assessed. (R.S. Art. 7664.)

§ 55.590. Furnishing Lists of Persons Who Refuse to Take Oath or Fail or Refuse to Render Property

(a) The assessor and collector shall furnish to the board of equalization, at the time he delivers his lists and books, a certified list of the names of all persons who refuse to swear to or sign the oath or who fail or refuse to list their property.

(b) The board shall examine the list and appraise the property listed by the assessor and collector. (R.S. Art. 7665.)

§ 55.591. Contesting Increased Assessments and Addition of Land to Tax List

(a) After the board of equalization has examined fully the lists and corrected all errors, if it raises the valuation of any property appearing on the lists or books of the assessor and collector or adds property to the lists or books, it shall adjourn for not less than 10 nor more than 15 days. The board of equalization shall then reconvene to hear from any person whose property valuation was raised or whose property was added to the lists or books. The date on which the board of equalization will reconvene shall be set in the order of adjournment.

(b) The board of equalization shall have the secretary give written notice of the date on which it will reconvene to any owner of property whose valuation was increased or whose property was added to the list or the person who rendered the property. The notice may be served by mail.

(c) The owner or person rendering the property may appear before the board of equalization when it reconvenes and show cause why the valuation should not be raised or the property should not be added to the list. (R.S. Art. 7666.)

§ 55.592. Meeting to Hear Persons whose Property Valuation Is Raised

The board of equalization shall meet at the time specified in the order under Section 55.591 of this code and shall hear any person whose property valuation has been raised. If the board of equalization decides that it has raised the valuation too high, it shall lower the valuation to the proper level. (R.S. Art. 7667 (part).)

§ 55.593. Returning Lists of Equalized Property

After the board of equalization has examined and equalized the value of all property on the assessor and collector's lists or books, it shall approve the lists or books and return them together with the lists of unrendered property to the assessor and collector, who shall use them to make the general tax rolls. (R.S. Art. 7667 (part).)

§ 55.594. Approving General Tax Rolls

After the general tax rolls are completed, the board of equalization shall reconvene to examine the rolls and approve them if they are correct. The action of the board of equalization is final and is not subject to revision by the board of equalization or any other tribunal. (R.S. Art. 7667 (part).)

§ 55.595. Dates for Equalization of Taxes and Preparation of Tax Roll

(a) After the initial meeting, the board of equalization shall meet annually on the first Monday in June of each year to receive the assessment lists or books for examination, correction, equalization, appraisal, and approval and for addition of any property which is unrendered.

(b) The board of equalization shall complete and deliver the lists and rolls to the assessor and collector by the third Monday in July of the same year.

(c) The assessor and collector shall complete the tax rolls and the board of equalization shall approve the tax rolls and return them to the assessor and collector by the first Monday in October of each year. (R. S. Art. 7673.)

§ 55.596. Permanent Tax Rolls

(a) After the assessment lists and books are approved by the board of equalization and returned to the assessor and collector, he shall compile the assessment of all taxable property in the district on duplicate tax rolls.

(b) After these tax rolls are approved by the board of equalization, one copy of the tax roll shall be retained in the office of the assessor and collector and one copy shall be delivered to the board which shall keep it as a permanent record. (R.S. Art. 7669 (part).)

§ 55.597. Retaining Lists and Books as Permanent Records

The assessor and collector shall have all the lists and books substantially bound and shall keep them as a permanent record of his office. The assessor and collector shall deliver the bound lists and books together with the other records of his office to his successor, after the successor is elected and has qualified, or if a vacancy occurs in the office of assessor and collector, the records shall be delivered to the board. (R.S. Art. 7669 (part).)

§ 55.598. Duty to Collect and Deposit Taxes and Make Report

(a) The assessor and collector shall collect all taxes which are owed to the district and shall, at the end of each week, pay all the money which has been collected by him to the district depository.

(b) On the fourth Saturday in each month, the assessor and collector shall report to the board all money which has been collected by him and paid to the depository. (R.S. Art. 7670 (part).)

§ 55.599. Date Taxes are Due

Taxes levied under this subchapter are due on November 1 of each year and shall be paid before the following February 1. (R.S. Art. 7674 (part), as amended.)

§ 55.600. Tax Office

For the convenience of district taxpayers, the assessor and collector shall maintain an office with the board. The office shall serve as a place where taxes may be paid. (R.S. Art. 7670 (part).)

§ 55.601. Additional Duties of the Assessor and Collector

The board may prescribe other duties for the assessor and collector which duties shall be performed in the manner prescribed in the board's rules and regulations. (R.S. Art. 7670 (part).)

§ 55.602. Records of Tax Collections

(a) The board shall charge the assessor and collector with the total assessment which is shown by the assessment rolls. The charge shall be kept in a permanent finance ledger kept for that purpose.

(b) The assessor and collector shall receive proper credit for all money paid to the district depository as shown by the monthly reports.

(c) On the final settlement, the assessor and collector shall make a full and complete report of all taxes which have not been collected, and this report shall be audited by the board and proper credit shall be given for the unpaid taxes. The final annual settlement shall be made on the first Monday in September of each year. (R.S. Art. 7671.)

§ 55.603. Delinquent Tax Liens

(a) Any land or property against which delinquent taxes are due shall have a lien against it for the payment of the delinquent taxes.

(b) The district may file suit to enforce the lien against any land or other property.

(c) If the person who is the record owner of the land or other property on the date the suit is filed is made a party to the suit and receives proper notice, the land may be sold under a judgment of the court to recover the taxes, interest, penalty, and the costs due for any preceding years even if the owner is unknown, the land is listed in the name of a person who is not the owner, or the ownership changes.

(d) Any laws providing for a period of limitation on debt or actions do not apply to taxes accruing after the district is created. (R.S. Art. 7675.)

§ 55.604. Assessment Liens

Assessments made by the board for maintenance and operation of the district are liens against the land on which the assessments were made and remain liens on the land until the assessments are paid. No law which provides for a period of limitation against actions for debt shall apply under this section, and these debts cannot be barred by limitation. (39th Legis., Ch. 152, Sec. 4.)

§ 55.605. Interest and Penalty on Delinquent Taxes

(a) If any person fails or refuses to pay the taxes on his property until after January 31 following the return of the assessment roll of the district, a penalty of 10 percent on the entire amount of the delinquent taxes shall be collected and paid to the district.

(b) Delinquent taxes and penalties shall bear interest from August 1 after they become due at a rate of six percent a year (R.S. Art. 7684, sen. 1, 2, as amended.)

§ 55.606. Collection of Delinquent Taxes

The assessor and collector of taxes, using the tax roll, shall sell enough of the personal property to produce a sufficient amount to pay the taxes together with the penalty, interest, and costs. If the assessor and collec-

tor cannot find any personal property to sell, he shall prepare and file with the secretary of the district the delinquent tax list provided in Section 55.608 of this code, charging against the property all taxes, interest, and penalties assessed against it and the owner. (R.S. Art. 7684, sen. 3, 4, as amended.)

§ 55.607. Delinquent Tax Roll

(a) The board shall have the assessor and collector prepare or shall have prepared at the expense of the district a list of all land in the district on which taxes are unpaid on January 31 of each year. This list shall be called the delinquent tax roll.

(b) The delinquent tax roll shall be delivered to the secretary of the district to be kept as part of the records in his office.

(c) The delinquent tax roll shall include a sufficient description to identify property on which delinquent taxes are due. The description may be made by reference to lot or block number. (R.S. Art. 7677, sen. 1, 2, 3, as amended.)

§ 55.608. Recording Delinquent Tax Roll

When the board receives the delinquent tax roll, it shall record the roll in a book which is labeled, "The Delinquent Tax Record of _____ County, Water Improvement District No. _____", and shall include with the tax roll an index which shall contain the names of all delinquent taxpayers in alphabetical order. (R.S. Art. 7678.)

§ 55.609. Publication of Delinquent Tax Record

(a) On completion of the delinquent tax record by the district, the board shall publish the record for three consecutive weeks in a newspaper published in the county in which the district is located.

(b) If there is no newspaper published in the county in which the district is located, the board shall enter into a contract with a newspaper outside the district to publish the notice. The district may pay a publisher's fee of not more than 25 cents for each tract of land advertised.

(c) Publication may be proven by an affidavit which specifies the time when the record was published and which is signed by the proprietor of the newspaper, the foreman, or the principal clerk of the newspaper. The affidavit shall be attached to a copy of the publication. (R.S. Art. 7679.)

§ 55.610. Suit to Collect Delinquent Taxes

(a) Twenty days after notice is published under Section 55.609 of this code or as soon after that time as practicable, the board shall employ an attorney to bring suit to collect all taxes, interest, penalty, and costs due on the land. The suit shall be brought in the name of the district in the district court of the county in which the district is located.

(b) The petition

(1) shall describe the land on which taxes and penalties remain unpaid;

(2) shall state the total amount of taxes and penalties due on the land with interest computed to the time of sale at a rate of six percent a year;

(3) shall request judgment for the amount stated;

(4) shall request that the lien against the land be fixed, established, and foreclosed and that the land be sold to satisfy the judgment for taxes, interest, penalty, and costs; and

(5) shall request other relief to which the district is entitled under the law and facts.

(c) Suits to enforce the collection of taxes under this section shall have priority over all other suits pending in the district court. (R.S. Art. 7680.)

§ 55.611. Publication not Prerequisite to Filing Tax Suit

The publication of the delinquent tax rolls is not a prerequisite to filing tax suits, and the suits may be filed without publication of the notice. (39th Legis., Ch. 152, Sec. 2, sen. 2.)

§ 55.612. Conduct of Foreclosure Suit

The proper persons shall be made defendants in foreclosure suits and shall have process served on them in the manner provided by law for other suits of the same kind. In case of foreclosure, an order of sale shall be issued in the manner provided for other foreclosure suits. (R.S. Art. 7681 (part).)

§ 55.613. Redeeming Lands on which Delinquent Taxes Are Owed

Any delinquent taxpayer whose land has been returned delinquent or anyone who has an interest in the land may redeem the land at any time before it is sold under the provisions of this subchapter. The land may be redeemed by paying to the assessor and collector the taxes due on the land together with interest, penalty, and costs. (R.S. Art. 7685.)

§ 55.614. Sale of Foreclosed Land in Several Small Tracts

If the defendant or his attorney, at any time before the land is sold, shall file with the sheriff or other officer who has an order to sell the land a written request that the land be divided and sold in several tracts, the sheriff or other officer shall sell only as many tracts as may be necessary to satisfy the judgment, interest, penalties, and cost. The written request shall include a description of the division which the defendant requests, and the defendant's divisions shall be adopted if it is reasonable. (R.S. Art. 7681 (part).)

§ 55.615. Disposition of Excess Sale Price

After the payment of taxes, interest, penalties, and costs from the money obtained at a sale of land on which a judgment of foreclosure has been made, the sheriff or other officer executing the order of sale shall pay to the defendant or his attorney any remaining portion of the money obtained at the sale. (R.S. Art. 7681 (part).)

§ 55.616. Deed for Land Sold for Delinquent Taxes

After land is sold to pay delinquent taxes, the sheriff or other officer selling the land or his successor in office may give a deed for the land sold to the purchaser or to any other person designated by the purchaser. The deed shall be held by any court in this state to vest a good and perfect title in the purchaser of the land, and the title may be impeached only for actual fraud. (R.S. Art. 7682.)

§ 55.617. Attorneys' Compensation

The attorney's who represent the district in suits against delinquent taxpayers are entitled to receive from the delinquent taxes collected the compensation fixed by the board. The compensation paid to the attorneys shall not be more than 15 percent of the amount of delinquent taxes collected. (R.S. Art. 7683, sen. 1.)

§ 55.618. Attorney's Fees Added to Taxes

If a district employs an attorney to collect delinquent taxes, the attorney's fee fixed under Section 55.616 of this code shall be added as collection fees to the taxes in an amount of not more than 10 percent of the delinquent taxes as collection. These fees may be recovered in the judgment rendered in the delinquent tax suit. (39th Legis., Ch. 152, Sec. 2, sen. 1.)

§ 55.619. Fees of Other Officers

The sheriff, district clerk, and other officers executing any writ or performing any service in the foreclosure of delinquent taxes on land in the district are entitled to receive for their services the same fees provided by law for the same services performed in the discharge of their official duties. (R.S. Art. 7683, sen. 2.)

§ 55.620. General Powers and Regulations

(a) No district may become a party to, purchase, hold under, assign, seek to enforce, or receive benefits from a contract between a landowner and a private canal company which was entered into before the district was created. Rights and privileges owned or possessed by the district are those arising or inherent in the district under this chapter.

(b) The district may not:

(1) acquire or enforce any lien against the land which was fixed by a contract entered into before the district was created;

(2) prosecute or have prosecuted any suit to recover water taxes or assessments which accrued before the district was created;

(3) foreclose any lien on land for unpaid water taxes or assessments which accrued before the district was created;

(4) avail itself of any rights under a private contract relating to the land which contract was entered into before the district was created; and

(5) be held liable for the private contract.

(c) The two-year statute of limitation and the provisions of this section may be pleaded as a bar to an action to recover water rents or other assessments which accrued on land in the district before the district was created. (R.S. Art. 7676.)

§ 55.621. Alternative Method of Assessment and Equalization

(a) Any district assessing taxes on the ad valorem basis may adopt the county assessments and equalization of values on property as a basis for the levy and collection of district taxes.

(b) The district may obtain from the assessor and collector of the county a list of tax renditions covering property in the district and may have the assessor and collector for the district use this list as the tax roll for the district instead of making an independent assessment. (R.S. Art. 7791, sen. 1.)

§ 55.622. Authorizing County to Assume Collection of District Taxes

(a) If officers of a district fail to perform and discharge their duties to assess and evaluate property in the district and collect taxes, any bondholder or other person interested in the district and the payment of its obligations may request the commissioners court to order the assessor and collector of the county to perform the duties provided in Section 55.623 of this code.

(b) The commissioners court shall investigate the matter, and if it finds the alleged conditions to exist, it shall enter an order directing the assessor and collector of the county to proceed to collect the taxes. No assessor and collector of a county may collect taxes for a district until ordered to do so by the commissioners court.

(c) If a dispute arises over whether or not the district officers are performing their duties, the dispute shall be determined by a suit against the officers in the district court for a writ of mandamus or an injunction to prevent the officers from interfering with the collection of the taxes and the payment of the obligations by the assessor and collector of the county and the commissioners court. A decision of the district court may be appealed to the court of civil appeals whose judgment is final.

(d) The provisions of Sections 55.622 and 55.623 of this code do not authorize anyone to interfere with the district officers if they are actively discharging their duties, but if the officers fail to perform their duties or a vacancy occurs in the offices, the duties in these sections shall be exercised. (R.S. Art. 7791, sen. 7, 8, 9, 10.)

§ 55.623. Assessor and Collector of County to Collect Taxes

(a) If the assessor and collector for the district and the district directors fail or refuse to properly assess property, equalize tax values, and prepare a tax roll, taxes levied at the time bonds or other obligations of the district are issued shall be collected by the assessor and collector for the county by entering on his rolls the tax against all property located in the district for the year or years which the officers failed to perform their duties.

(b) If the tax levy is not sufficient because of deceased valuations, they shall be increased by order of the commissioners court.

(c) Taxes collected under this section shall be deposited in the county depository in a special fund devoted to the payment of principal of and interest on the bonds or other obligations and the money shall be paid from the fund on order of the commissioners court.

(d) If the assessor and collector of the county fails or refuses to perform the duties under this section, any holder of the bonds and obligations may seek a writ of mandamus in a court of competent jurisdiction to compel the assessor and collector of the county to perform the duties.

(e) The assessor and collector of the county is entitled to receive for his services under this section a reasonable fee fixed by the commissioners court in an amount not to exceed the rate of compensation provided by law for the performance of similar duties in the collection of county taxes. (R.S. Art. 7791, sen. 2, 3, 4, 5, 6.)

§ 55.624. Districts in Two or More Counties

If a district includes territory in two or more counties, the duties provided in Sections 55.622 and 55.623 of this code shall be performed by the assessor and collector of each county and the commissioners court of each county for property located in their respective counties. (R.S. Art. 7791, sen. 11.)

[Sections 55.625–55.650 reserved for expansion]

SUBCHAPTER N. TAXATION ON A BENEFIT BASIS

Section 55.651. Election to Determine Method of Taxation

(a) A district which operates under the provisions of Article XVI, Section 59, of the Texas Constitution, may, at the time the district is created or before bonds are issued, submit to the voters of the district the question of whether the district will levy, assess, and collect taxes on the ad valorem basis or on the benefit basis.

(b) The question shall be presented to the voters at the time and in the manner provided by the board.

(c) The ballots for the election shall be printed to provide for voting for or against the following proposition: "The levy of taxes on the benefit basis instead of the ad valorem basis."

(d) The election shall be governed by the provisions of this chapter.

(e) If a majority of the persons voting in the election favor the proposition, the district shall levy, assess, and collect its taxes on the benefit basis. (R.S. Art. 7807, sen. 1, 2, 3, 4 (part).)

§ 55.652. Assessment Record

When necessary, the board shall apportion and assess the benefits conferred on property in the district and shall make a record showing the amount and value of benefits to accrue on property in the district and the amount of taxes to be levied and collected on the property. No taxes assessed or adjudged against the property may be more than the benefit which accrues to the property from the organization, operation, and maintenance of the district and its improvements. (R.S. Art. 7807, sen. 4 (part).)

§ 55.653. Notice of Taxes

After the board makes the record specified in Section 55.652 of this code, the board shall mail to each property owner whose name appears in the record, notice of the amount of taxes levied on his property and the date and place at which the property owner may appear and contest the correctness and equitableness of the tax. (R.S. Art. 7807, sen. 5.)

§ 55.654. Decision After Hearing

After the hearing, the board shall determine whether or not the tax is equitable and shall sustain, reduce, or increase the tax to an amount which in the board's judgment is equitable. (R.S. Art. 7807, sen. 6.)

§ 55.655. Applicable Law

The provisions of this chapter relating to levy, assessment, and collection of taxes which are not inconsistent with the provisions of this subchapter shall apply. (R.S. Art. 7807, sen. 7.)

§ 55.656. Districts Adopting Benefit Plan of Taxation

In any district other than a district operating under a contract with the United States which is operating under the provisions of Article XVI, Section 59, of the Texas Constitution, and which adopted the assessment of benefit plan of taxation, tax values shall be fixed, levied, assessed, equalized, and collected in the manner provided in Sections 55.657–55.669 of this code. (R.S. Art. 7781.)

§ 55.657. Commissioners of Appraisalment

As soon as practicable after the approval of the engineer's report and the adoption of the plan for improvements to be constructed, the board shall appoint three disinterested commissioners of appraisalment. The commissioners shall be freeholders but not owners of land within the district which they represent. (R.S. Art. 7782.)

§ 55.658. Compensation of Commissioners

On approval by the board, each commissioner is entitled to receive \$10 a day for each day he actually serves, plus all necessary expenses. (R.S. Art. 7784, sen. 3 (part).)

§ 55.659. Notice of Appointment and Meeting

Immediately after the commissioners of appraisalment are appointed, the secretary of the board shall give written notice to each appointee of his appointment and of the time and place of the first meeting of the commissioners. (R.S. Art. 7783, sen. 1.)

§ 55.660. First Meeting of Commissioners

(a) The commissioners shall meet at the time specified in the notice from the secretary or as soon thereafter as possible.

(b) At the meeting the commissioners shall take an oath to faithfully and impartially discharge their duties as commissioners and make a true report of the work which they perform. They shall then organize by electing one commissioner as chairman and one commissioner as vice-chairman.

(c) The secretary of the board or, in his absence, a person appointed by the board shall serve as secretary to the commissioners of appraisalment and shall furnish to the commissioners any information and assistance which is necessary for the commissioners to perform their duties. (R.S. Art. 7783, sen. 2.)

§ 55.661. Assistance for Commissioners

Within 30 days after the commissioners qualify and organize, they shall begin to perform their duties, and in the exercise of their duties, they may obtain legal advice and information relative to their duties from the district's attorney and, if necessary, may require the presence of the district engineer or one of his assistants at any time and for as long as necessary to properly perform their duties. (R.S. Art. 7784, sen. 1.)

§ 55.662. Viewing Land and Other Property and Improvements in District

The commissioners shall view the land in the district which will be affected by the district's reclamation plans and the public roads, railroads, rights-of-way, and other property and improvements located in the district and shall assess the amount of the benefits and damages that will accrue to the land, roads, railroads, rights-of-way, or other property or improvements in the district from the construction of the improvements. (R.S. Art. 7784, sen. 2.)

§ 55.663. Commissioners Report

(a) The commissioners shall prepare a report and file it with the secretary of the board. The report shall be signed by at least a majority of the commissioners.

(b) The report shall include:

(1) the name of the owner of each tract of land which is subject to assessment;

(2) a description of the property;

(3) the amount of the benefits or damages assessed on each tract of land;

(4) the time and place at which a hearing will be held on the report to hear objections; and

(5) the number of days each commissioner served and the actual expenses incurred during his service as commissioner.

(c) The date set in the report for the hearing may not be earlier than 20 days after the report is filed. (R.S. Art. 7784, sen. 3 (part), 4.)

§ 55.664. Notice of Hearing

(a) After the commissioners' report is filed, the secretary of the board shall publish notice of the hearing on the report at least once a week for two consecutive weeks in a newspaper published in each county in which part of the district is located. The secretary also shall mail written notice of the hearing to each person whose property will be affected if his address is known.

(b) The notice shall state:

(1) the time and place of the hearing;

(2) that the commissioners' report has been filed;

(3) that interested persons may examine the report and make objections to it; and

(4) that the commissioners will meet at the time and place indicated to hear and act on objections to the report.

(c) On the day of the hearing, the secretary shall file in his office the original notice and his affidavit stating the manner of publication, the names of persons to whom notice was mailed, and the names of persons to whom notice was not mailed because the secretary by reasonable diligence could not ascertain their addresses. Copies of the notice and affidavit also shall be filed with the commissioners of appraisal and the clerk of the commissioners court. (R.S. Art. 7785.)

§ 55.665. Hearing

(a) At or before the hearing on the commissioners' report, an owner of land which is affected by the report or the reclamation plans may file exceptions to all or part of the report.

(b) At the hearing, the commissioners shall hear and form opinions on the objections submitted and for the objections which are sustained, the commissioners may make necessary changes and modifications in the report. (R.S. Art. 7786, sen. 1.)

§ 55.666. Witnesses at the Hearing

At the hearing, interested parties not only may appear in person or by attorney, but are entitled, on demand, to have the chairman of the com-

missioners issue process for witnesses. The commissioners shall have the same power as a court of record to enforce the attendance of witnesses. (R.S. Art. 7787, sen. 2.)

§ 55.667. Costs of Hearing

The commissioners may adjudge and apportion the cost of the hearing in any manner they consider equitable. (R.S. Art. 7786, sen. 3.)

§ 55.668. Commissioners' Decree

(a) After the commissioners have made a final decision based on the hearing, they shall issue a decree confirming their report insofar as it remains unchanged, and shall approve and confirm changes in the report.

(b) The final decree and judgment of the commissioners shall be entered in the minutes of the board, and certified copies shall be filed as a permanent record with the county clerk of each county in which part of the district is located and shall be notice to all persons of the contents and purpose of the decree.

(c) The findings of the commissioners which relate to benefits and damages to land and other property in the district are final and conclusive. (R.S. Art. 7786, sen. 2, 4, and 5.)

§ 55.669. Effect of Final Judgment and Decree

The final judgment and decree of the commissioners shall form the basis for all taxation in the district. Taxes shall be apportioned and levied on each tract of land and other real property in the district in proportion to the net benefits to the land or other property stated in the final judgment and decree. (R.S. Art. 7787, sen. 1.)

§ 55.670. Fixing Tax as Equal Sum on Each Acre

At the election at which the plan of taxation is determined or at any other time before the bonds are issued, the voters of a district which is not operating under a contract with the United States may vote on the proposition of whether or not benefits for tax purposes shall be fixed as an equal sum on each acre of land that is irrigated or to be irrigated by gravity flow from the canal system of the district. The benefit per acre shall be voted on as it is applied to land in the district that can be irrigated by gravity flow from the irrigation system and also the benefit to land in the district that cannot be irrigated by gravity flow. (R.S. Art. 7779, sen. 1 (part), 2.)

§ 55.671. Election

(a) If the board desires to submit the question of whether or not to adopt the method of assessing benefits provided in Section 55.670 of this code, it shall order an election to be held in the district and shall submit the proposition in the manner provided for other district elections.

(b) The ballots for the election shall be printed to provide for voting for or against: "Uniform assessment of benefits of \$_____ per acre on all irrigable land in the district, and the assessment of \$_____ per acre on all nonirrigable land in the district."

(c) The board shall determine the amounts which shall fill the spaces in the proposition. The amount of charge per acre may be found by dividing the number of acres of land into the amount of debt to be incurred by the district in providing for irrigation.

(d) If a majority of the persons voting in the election vote in favor of the proposition, it shall be adopted. (R.S. Art. 7779, sen. 3, 4, 5, 6, 8.)

§ 55.672. Excluding Nonirrigable Land from District

If the owner of land which is classed as nonirrigable under the uniform acreage valuation objects to the amount of charges fixed against him by the order calling the election or by the result of the election, he may have his nonirrigable land excluded from the district by filing an application for exclusion as provided by law within 10 days after the election is held. (R.S. Art. 7779, sen. 7.)

§ 55.673. Setting Annual Value of Land Unnecessary

If the district adopts the uniform acreage valuation for taxation, the valuation shall be applied to all land, and it is not necessary for the assessor and collector or the board of equalization to annually fix the value of the land or equalize the values. It is also unnecessary for the board to appoint a commission to ascertain or fix the value of the improvement to particular land. (R.S. Art. 7779, sen. 9.)

§ 55.674. Preparing Tax Rolls

(a) The board of equalization shall examine the renditions and tax rolls to determine if all property subject to taxation appears on the tax rolls under the proper classification. The board of equalization shall add to the tax roll any property which was left off or was not rendered for taxation and shall examine, correct, and certify the tax roll.

(b) Any property owner may protest to the board of equalization that his property has not been properly classified. The board of equalization shall consider the protest, hear evidence, and enter its findings in the minutes in the manner provided by law. (R.S. Art. 7779, sen. 10, 11.)

§ 55.675. Rendition of Property

Land which is taxed on the uniform acreage valuation shall be rendered for taxation as either subject to irrigation or not subject to irrigation. When land is rendered, the value need not be stated, and it is unnecessary for the person rendering the property to include the value of the land in an affidavit or for the assessor to set a value on the land. (R.S. Art. 7779, sen. 12 (part).)

§ 55.676. Law Governing Administration of Benefit Tax Plan

The rate of taxation, the collection of taxes, the assessment of property, and the rendition of property for taxation shall be governed by the law relating to ad valorem taxes. (R.S. Art. 7779, sen. 12 (part).)

§ 55.677. Irrigating Nonirrigable Land

If land which is classed as nonirrigable is later irrigated by the district, before the owner of the land receives the water, he shall pay to the district an amount equal to the entire amount that would have been charged to the owner if the land had been originally classed as irrigable. (R.S. Art. 7779, sen. 13.)

[Sections 55.678–55.710 reserved for expansion]

**SUBCHAPTER O. ADDING AND EXCLUDING TERRITORY,
AND CONSOLIDATING DISTRICTS****Section 55.711. Excluding Land by Order of Directors**

Prior to the issuance of bonds or other fixed obligations by the district, the district may exclude from the district land included within its boundaries that cannot be irrigated by gravity flow from the irrigation system as constructed. (R.S. Art. 7801, sen. 1.)

§ 55.712. Director's Order

The board shall enter an order in its minutes specifying the land and the owners of the land to be excluded and declaring the land to be in a position that prevents it from being irrigated by gravity flow from the canals constructed or to be constructed. (R.S. Art. 7801, sen. 2.)

§ 55.713. Notice of Order

Within 10 days after the board's order excluding land from the district is made and entered in the minutes, notice of the order shall be given by publishing a copy of the order once a week for two weeks in a newspaper of general circulation in the county in which the land is located. (R.S. Art. 7801, sen. 3.)

§ 55.714. Protest by Owners

(a) If a protest to the exclusion is not filed with the board within 15 days after the final publication of notice, the board's order shall become final on all land included in the order whose owners have not filed a protest. (R.S. Art. 7801, sen. 4.)

(b) If the owner of land or any part of land included in the board's order shall file a protest with the board contesting the exclusion of the land and requesting the board not to take the land out of the district, the board shall annul the part of the order which relates to the land, and the land shall remain in the district. (R.S. Art. 7801, sen. 5.)

§ 55.715. Returning Excluded Land to a District

If land is excluded from a district by order of the board and later the district desires to return the land to the district, the land may be included in the district on application of the owners of the land in the manner provided by this subchapter for adding lands to an established district. (R.S. Art. 7801, sen. 6.)

§ 55.716. Excluding Land by Petition of Landowner

Before the issuance of bonds by the district, the owner of any land included in the district may file a petition with the board requesting that land owned by him be excluded from the district. The petition shall describe the lands which the petitioners desire to have excluded by metes and bounds and the petition must be acknowledged in the manner and form required by law for the conveyance of real estate. (R.S. Art. 7646.)

§ 55.717. Petition

When the petition to exclude land from the district is filed with the board, the board shall immediately set the date of the hearing on the pe-

tion. The hearing shall be not later than 20 days from the date the petition is filed. (R.S. Art. 7647, sen. 1 (part).)

§ 55.718. Notice of Hearing

The board shall give notice of the hearing on a petition to exclude land by posting written or printed notices of the time and place of the hearing at three public places in the district. The notice shall contain a copy of the petition for exclusion and shall be posted for at least eight days before the hearing. (R.S. Art. 7647, sen. 1 (part), 2.)

§ 55.719. Hearing

(a) At the hearing, the board shall hear the petition and all objections to the petition to determine whether or not all or part of the land should remain in the district or be excluded from it. (R.S. Art. 7648 (part).)

(b) During the course of a hearing, the board may adjourn the hearing from time to time. (R.S. Art. 7648 (part).)

(c) If the board finds that all or part of the land cannot be irrigated by gravity flow from the irrigation system as constructed or to be constructed, or if they find for other reasons that the land should be excluded, they shall grant the petition in whole or in part. (R.S. Art. 7648 (part).)

§ 55.720. Rights of Excluded Land and Owners

If the board finds that land should be excluded from the district, the excluded land and the owners of excluded land waive all right to receive water from the district or from the irrigation system of the district (R. S. Art. 7648 (part).)

§ 55.721. Exclusion of Nonagricultural and Nonirrigable Land from District

Land located in the district which is classified as nonagricultural and nonirrigable may be excluded from the district in the manner provided in Sections 51.702–51.713 of this code. (New.)

§ 55.722. Directors' Resolution Excluding Land in or near a City

When there is inside the district land lying inside or adjoining the territorial limits of an incorporated city or town which was not included in the district at the time the district was created, and when the land has been subdivided into town lots and blocks, with streets or other thoroughfares dedicated to the use of the public, and when a map and the dedication have been filed for record with the county clerk of the county in which the land is located, the board of the district may by resolution discontinue the land as a part of the district. When the resolution is passed, the secretary of the district shall enter it in the minutes of the board of directors of the district, and from that time, the territory is excluded from the district and is no longer entitled to be served with water by the district. (40th Legis., Ch. 216, Sec. 1.)

§ 55.723. Owners' Petition to Exclude Land

The owner or owners of the fee of land containing at least 10 acres inside a district, may file a petition with the board asking that the land be excluded from the district. The petition must describe the land by metes

and bounds. When the petition is filed with the secretary of the district, the board shall order an election to be held at convenient places in the district within 30 days. If a majority of the qualified electors of the district who vote in the election vote to discontinue the land as a part of the district, the board by order shall declare the land to be excluded from the district. The order must be entered in the minutes of the board. After the order is entered, the land is excluded from the district and is no longer entitled to be served with water by the district. (40th Legis., Ch. 216, Sec. 2.)

§ 55.724. Taxes on Excluded Land

If land is excluded from a district at a time when the district has outstanding debt, the excluded land is not released from the payment of its pro rata share of the indebtedness. The district shall continue to levy taxes each year on the property at the same rate levied on other property of the district, until the taxes collected from the excluded land equals its pro rata share of the indebtedness of the district at the time of the exclusion of the land. The taxes so collected shall be charged only with the cost of levying and collecting the taxes, and shall be applied exclusively to the payment of the pro rata share of the indebtedness. The owner of all or part of the excluded land may pay in full, at any time, his pro rata share of the indebtedness, both principal and interest, of the district. (40th Legis., Ch. 216, Sec. 3.)

§ 55.725. Adding Land by Petition of Landowner

The owner or owners of land in the vicinity of the district may file a written petition with the board requesting that the land described by metes and bounds in the petition be included in the district. (R.S. Art. 7649, sen. 1, 2 (part), as amended.)

§ 55.726. Survey of Land to be Added

When the petition to include land in the district is filed with the board, they shall have a survey made of the land described in the petition and the boundaries marked on the ground. (R.S. Art. 7649, sen. 2 (part), as amended.)

§ 55.727. Annexation Authority

The directors may include in the district the land described in the petition if it can be irrigated without impairing the irrigation rights of any of the land already in the district. (R.S. Art. 7649, sen. 2 (part), as amended.)

§ 55.728. Liability of Included Land

If the land described in the petition is included in the district, the land shall immediately become liable for its proportionate share of taxes or bonded indebtedness which has been created against the district and for a reasonable assessment by the board to pay part of maintenance, operation or other necessary expenses. (R.S. Art. 7649, sen. 2 (part), as amended.)

§ 55.729. Petition and Order by Directors Recorded

If the land described in the petition is included in the district, the petition for inclusion must be signed and acknowledged in the manner provided for acknowledging deeds, and the petition and the order of the

board including the land in the district must be recorded in the deed records of the county in which the district is located. (R.S. Art. 7650.)

§ 55.730. Adding Land by Petition of 50 Landowners of the Territory

Landowners of a defined area of territory not included in a district may file a petition with the board signed by 50 or a majority of the landowners in the territory requesting that the land described by metes and bounds in the petition be included in the district. (47th Legis., Ch. 403, Sec. 1, sen. 1, 2, 3 (part).)

§ 55.731. Hearing on Petition

When a petition to include land in the district is filed with the board, the board by order shall set the time and place of the hearing on the petition. The board may not hold the hearing before the expiration of the 30th day after the day of the order. (47th Legis., Ch. 403, Sec. 1, sen. 3 (part).)

§ 55.732. Notice of Hearing

(a) The secretary of the board shall issue notice of the time and place of the hearing, and the notice shall describe the territory proposed to be annexed.

(b) The secretary shall post copies of the notice in three public places in the district and in two public places in the territory proposed to be annexed. The notices shall be posted for at least 15 days immediately preceding the day of the hearing.

(c) The secretary also shall publish the notice one time in a newspaper of general circulation in the county. The notice shall be published before the beginning of the 15-day period immediately preceding the day of the hearing. (47th Legis., Ch. 403, Sec. 1, sen. 4, 5.)

§ 55.733. Procedure at Hearing

At the time and place stated in the notice, the directors shall hear the petition to annex land to the district in the manner provided by Section 55.027 of this code. (47th Legis., Ch. 403, Sec. 2, sen. 1.)

§ 55.734. Resolution to Add Territory

On hearing the petition if the board finds that the addition would be of benefit both to the territory and to the district, it may add the territory to the district by resolution entered on its minutes. The board need not include all the land described in the petition if it finds that a modification or change is necessary or desirable. (47th Legis., Ch. 403, Sec. 2, sen. 2, 3.)

§ 55.735. Elections to Ratify Annexation of Land

Annexation of the territory is not final until ratified at separate elections held in the district and in the territory proposed to be added to determine whether the land will be added to the district. If the district has outstanding debts or taxes, the same election shall also determine whether or not the territory to be added will assume its proportion of the debts or taxes if the land is added to the district. (47th Legis., Ch. 403, Sec. 2, sen. 4; and Sec. 3, sen. 1, 2.)

§ 55.736. Date of Elections

The board shall order elections to be held on the same day and not more than 30 days after the board enters its resolution tentatively adding the land to the district. (47th Legis., Ch. 403, Sec. 3, sen. 3.)

§ 55.737. Notice of Elections

The board shall give notice of the elections to determine whether land shall be added to a district by posting copies of the notice of election at three public places in the district and at least two public places in the territory proposed to be added for at least 20 days immediately preceding the date of the elections. (47th Legis., Ch. 403, Sec. 3, sen. 4.)

§ 55.738. Judges and Clerks to Conduct Elections

(a) The directors shall appoint two judges, one of whom shall be the presiding judge, and two clerks for each polling place in the district, who shall conduct the election in the district and make returns of the election. (47th Legis., Ch. 403, Sec. 3, sen. 5 (part).)

(b) The directors shall designate one or more polling places in the territory proposed to be added to the district, and shall appoint two judges, one of them shall be the presiding judge, and two clerks for each of the polling places, who shall conduct the election in the territory and make returns of the election. (47th Legis., Ch. 403, Sec. 3, sen. 5 (part).)

§ 55.739. Election Ballots

(a) The ballots for the election to determine whether land shall be added to the district shall be printed to allow for voting for or against: "Addition to water improvement district." (47th Legis., Ch. 403, Sec. 3, sen. 8.)

(b) If the question of whether or not the added territory will assume its proportion of the outstanding debts or taxes of the district is submitted, the ballots for the election shall be printed to allow for voting for or against: "Addition to water improvement district and assumption of proportionate part of outstanding debts and taxes." (47th Legis., Ch. 403, Sec. 3, sen. 9.)

§ 55.740. Provisions Governing Elections

Except as otherwise provided in this chapter, the manner of holding each of the elections to determine whether land shall be added to a district and the qualifications of persons voting in the elections are governed by the provisions of this chapter applying to the election held to create a district. (47th Legis., Ch. 403, Sec. 3, sen. 7.)

§ 55.741. Election Expenses

The district shall pay all expenses of the election held to determine whether land shall be added to the district. (47th Legis., Ch. 403, Sec. 3, sen. 6.)

§ 55.742. Vote Required to Approve Annexation of Land

(a) In a district organized and operating under the provisions of Article III, Section 52, of the Texas Constitution, a two-thirds vote of the electors voting at each election is required to ratify annexation of land to the district. (47th Legis., Ch. 403, Sec. 4, sen. 1.)

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(b) In a district operating under the provisions of Article XVI, Section 59, of the Texas Constitution, a majority vote of the electors voting at each election is required to ratify annexation of land to the district. (47th Legis., Ch. 403, Sec. 4, sen. 2.)

§ 55.743. Final Annexation Upon Favorable Vote

If the proposition to add land to a district receives the vote required in Section 55.742 of this code, the land added becomes an integral part of the district on the date of the election. The added land is subject to all laws governing the district from the date of the election and shall bear its pro rata part of all debts or taxes owned, contracted, or authorized by the district to which it is added. (47th Legis., Ch. 403, Sec. 4, sen. 3.)

§ 55.744. Affairs of the District After Annexation

Annexing land to a district does not in any manner affect the officers, employees, or affairs of the district, but the voters of the added territory have the right to participate in all district matters considered or voted on after the land is added. (47th Legis., Ch. 403, Sec. 5.)

§ 55.745. Addition of Land in Adjoining County

Land in an adjoining county may be included in a district in the same manner that land in the same county is added to a district. (R.S. Art. 7737a, as amended.)

§ 55.746. Annexation of Land Owned by District Directors

(a) A director of a district operating under Article XVI, Section 59, of the Texas Constitution, may have land owned by him annexed to the district under the provisions of this subchapter. (55th Legis., Ch. 346, Sec. 1.)

(b) A director seeking to have land which he owns annexed to the district shall not participate in the proceedings of the board to consider the acceptance or rejection of the application. The remaining directors of the district may determine conditions and terms of annexation of a director's land which are not inconsistent with the provisions of this chapter. (55th Legis., Ch. 346, Sec. 2.)

§ 55.747. Consent Necessary if United States Has Contract

No land may be added to a district which is under contract with the United States without the written consent of the secretary of the interior. (R.S. Art. 7651.)

§ 55.748. Land which Becomes Part of District as if Originally Included

If land entitled to be served by an established irrigation system is not originally included in the district in the manner provided by law and later is included in the district, it shall become part of the district as if originally included and is entitled to water service on an equal basis with land originally included in the district. (R.S. Art. 7766.)

§ 55.749. Liability of Land Added to a District

(a) If land is added to a district operating under Article XVI, Section 59, of the Texas Constitution, the order of the board adding the land to the district may contain an agreement that the added land will be taxed on the benefit plan of taxation instead of general ad valorem tax. The

agreement may provide that the added land will be taxed on a uniform acreage basis or on the plan of a definite annual payment. (39th Legis., Ch. 152, Sec. 1, sen. 1.)

(b) The board, in its order adding land to the district, shall set the amount of the debts to be paid by the owner of the added land and levy annual taxes against the land to pay the debts. The taxes assessed by the board constitute a lien against the added land in the same manner and to the same extent as if the land had been a part of the district at the time the indebtedness was incurred or authorized by an election held for that purpose. (39th Legis., Ch. 152, Sec. 1, sen. 2.)

(c) The added land is a part of the district and is liable for debts subsequently incurred by the district in the same manner as other land in the district. (39th Legis., Ch. 152, Sec. 1, sen. 3.)

§ 55.750. Consolidation of Districts

Two or more districts governed by the provisions of this chapter may consolidate into one district as provided by Sections 55.751–55.754. (R.S. Art. 7778, sen. 1 (part).)

§ 55.751. Elections to Approve Consolidation

(a) After the directors of each district have agreed upon the terms and conditions of consolidation, they shall order an election in each district to determine whether the districts should be consolidated. (R.S. Art. 7778, sen. 1 (part).)

(b) The directors of each district shall order an election to be held on the same day in each district and shall give notice of the election for at least 20 days in the manner provided by law for other elections. (R.S. Art. 7778, sen. 1 (part), 2.)

(c) The districts may be consolidated only if the electors in each district vote in favor of the consolidation. (R.S. Art. 7778, sen. 3.)

§ 55.752. Governing Consolidated Districts

(a) When two or more districts are consolidated, they become one district, except for the payment of debts created prior to consolidation, and are governed as one district. (R.S. Art. 7778, sen. 6 (part).)

(b) During a period of 90 days after the date of the election to approve consolidation, the officers of each district shall continue to act jointly as officers of the district to wind up the affairs of their respective districts. (R.S. Art. 7778, sen. 7 (part).)

(c) The consolidation agreement may provide that the officers of the original districts shall continue to act jointly as officers of the consolidated district until the next election or name persons to serve as officers of the consolidated district until the next election if all officers of the original districts agree to resign. (R.S. Art. 7778, sen. 7 (part).)

(d) New officers of the consolidated district must qualify as officers of the district within the period of 90 days after the election and shall assume their offices at the expiration of the 90-day period. (R.S. Art. 7778, sen. 8.)

(e) The current boards shall approve the bond of each new officer. (R.S. Art. 7778, sen. 9.)

§ 55.753. Debts of Original Districts

(a) When two or more districts are consolidated, the debts of the original districts are protected and are not impaired.

(b) These debts may be paid by taxes or assessments levied on the land in the original district as if it had not consolidated or contributions from the consolidated district on terms stated in the consolidation agreement. (R.S. Art. 7778, sen. 4, 6 (part).)

§ 55.754. Taxes of the Original District

(a) After consolidation, the officers of the consolidated district shall assess and collect taxes on property in the original district to pay debts created by the original district. (R.S. Art. 7778, sen. 5 (part).)

(b) If the officers of the consolidated district fail or refuse in due time to assess and collect taxes on property in the original district to pay the obligations of the original district, the taxes may be assessed and collected and paid on the obligations by a receiver acting under orders of a district court. A creditor or five or more taxpayers in the district may bring suit in a district court to have a receiver appointed. (R.S. Art. 7778, sen. 5 (part).)

[Sections 55.755–55.800 reserved for expansion]

SUBCHAPTER P. DISSOLUTION OF DISTRICT

Section 55.801. Failure to Function

Subject to the provisions of Sections 50.251–50.256 of this code, if any district does not begin to acquire the necessary canals, ditches, flumes, laterals, reservoirs, sites, damsites, pumping plants, or other things necessary to the successful operation of the district or does not diligently pursue the purposes for which it was created within two years after its organization, the district may be dissolved without formal action. (R.S. Art. 7725, sen. 1 (part).)

§ 55.802. Rights of Debtors if District Failed to Function

Any person with an interest in the district or a debt owed by the district may collect the debt in the manner provided for the collection of a debt due by any person, association of persons, or corporation. A court of competent jurisdiction may render judgment making the debt a lien against the property of the district and providing for the payment of the debt and judgment in the manner that a judgment for debt is enforced against a city or town that has been dissolved. (R.S. Art. 7725, sen. 1 (part).)

§ 55.803. Dissolution Using Procedure for Organization of Districts

If all debts and obligations of the district have been paid and discharged, a district may dissolve voluntarily by the same vote and in the same manner provided in this chapter for the organization of districts. The election shall be held in the manner provided in this chapter for holding elections in the district. (R.S. Art. 7725, sen. 1 (part).)

§ 55.804. Dissolution Using Procedure for Abolition of Districts in Chapter 56

A district may dissolve voluntarily in the manner provided for the dissolution of districts in Chapter 56 of this code, and the provisions in that chapter shall control the abolition of the district and the legal consequences of abolition. (R.S. Art. 7725, sen. 2.)

§ 55.805. Payment of Debts on Dissolution of District

(a) All debts of districts dissolved under the provisions for the dissolution of districts in this subchapter shall be prorated against the lands in the district in accordance with the assessed valuation for the preceding year of the lands owned by each separate landowner, according to the tax rolls in the office of the tax collector of the county in which the land is located. (R.S. Art. 7725—a, sen. 1 (part).)

(b) The pro rata assessments shall be paid within five years from the date of dissolution in five equal annual installments or at any time within the five-year period. (R.S. Art. 7725—a, sen. 1 (part).)

(c) Any allowed claim owned by a landowner against whom a pro rata assessment has been made shall be credited on the liquidation of the assessment. All prior payments made by any landowner of the dissolved district shall be credited on the assessment against him and his land. (R.S. Art. 7725—a, sen. 2 (part), 3.)

(d) The issuance of a receipt for the payment of the assessment by the proper official as provided in Chapter 56 of this code shall release the owner of the assessments and his land from the liens. The receipts may be recorded in the real estate records of the county or counties in which the land of the owner is located. (R.S. Art. 7725—a, sen. 2 (part).)

(e) When the assessment has been paid, the landowner is released automatically from the debt, and his land is released from all liens existing as security for the assessment. (R.S. Art. 7725—a, sen. 2 (part).)

CHAPTER 56. DRAINAGE DISTRICTS**SUBCHAPTER A. GENERAL PROVISIONS****Section 56.001. Definitions**

In this chapter:

(a) "District" means any drainage district organized under this chapter.

(b) "Board" means the governing body of a drainage district.

(c) "Commissioners court" means the commissioners court of the county in which the district is organized. (New.)

[Sections 56.002–56.010 reserved for expansion]

**SUBCHAPTER B. CREATION OF DISTRICT; CONVERSION
TO ARTICLE XVI, SECTION 59, DISTRICT**

Section 56.011. Creation of District

A drainage district may be created in the manner prescribed by this subchapter, either under and subject to the limitations of Article III, Section 52, of the Texas Constitution, or under Article XVI, Section 59, of the Texas Constitution. (R.S. Art. 8097, sen. 1; R.S. Art. 8194.)

§ 56.012. Name of Each District

The name of each district shall include the name of the county in which it is located and each district shall be numbered in consecutive order. (R.S. Art. 8117.)

§ 56.013. Area Included in a District

A district may include all or part of any village, town, or municipal corporation, but land included in one district may not be included in any other drainage district. (R.S. Art. 8097, sen. 2.)

§ 56.014. Petition

(a) Any person may present a petition to the commissioners court requesting the creation of a district. The petition shall be signed by at least 25 of the resident freehold taxpayers of the proposed district, or by at least one-third of the resident freehold taxpayers of the district if there are less than 75 of them, whose land might be affected by creation of the district.

(b) The petition shall state:

- (1) the necessity, public utility, and feasibility of the proposed district;
- (2) the proposed boundaries of the district; and
- (3) the proposed name for the district. (R.S. Art. 8098.)

§ 56.015. Deposit

(a) Any person filing a petition shall deposit with the clerk of the commissioners court \$200 in cash, which shall be held by the clerk until the result of the election to create the district and issue bonds is officially announced.

(b) If the result of the election favors creating the district, the clerk shall return the deposit to the petitioners or their agent or attorney, but if the result of the election is against the creation of the district, the clerk shall pay the cost and expenses of the election from the deposit with vouchers signed by the county judge and return the balance of the deposit to the petitioners or their agent or attorney. (R.S. Art. 8099.)

§ 56.016. Time of Hearing

At the same meeting at which the petition is presented, the commissioners court shall schedule a hearing on the petition at a regular or special meeting of the commissioners court. The hearing must be held during the period beginning on the 30th day and ending with the 60th day after the day the petition is presented. (R.S. Art. 8100, sen. 1 (part).)

§ 56.017. Notice

(a) The commissioners court shall order the clerk to give notice of the time and place of the hearing on the petition by posting a copy of the petition and order of the commissioners court during the 20-day period immediately preceding the day of the hearing in five public places in the county. The clerk shall post one of the copies at the courthouse door and the four other copies within the boundaries of the proposed district.

(b) The clerk is entitled to receive five cents a mile for each mile necessarily traveled in posting the notices. (R.S. Art. 8100, sen. 1 (part), 2.)

§ 56.018. Hearing on the Petition

At the hearing on the petition, any person whose land would be affected by creating the district may appear before the commissioners court and may contest the creation of the district or contend for its creation. The person may offer testimony to show that the district is or is not necessary and would or would not be a public utility and that creating the district would or would not be feasible or practicable. (R.S. Art. 8101.)

§ 56.019. Findings

(a) At the hearing on the petition, if it appears to the commissioners court that drainage of the proposed district is feasible and practicable and is needed and would be conducive to public health or would be a public benefit or a public utility, the commissioners court shall make findings to this effect.

(b) If the commissioners court finds any of the issues in Subsection (a) of this section in the negative, it shall dismiss the petition at the cost of the petitioners.

(c) The findings of the commissioners court shall be recorded. (R.S. Art. 8103.)

§ 56.020. Engineer

(a) If the findings of the commissioners court under Section 56.019 of this code favor creating the district, the commissioners court shall appoint a competent civil engineer, who shall be entitled to as many assistants as necessary.

(b) The engineer and his assistants are entitled to the compensation and allowances for transportation, supplies, and other expenses agreed on by the engineer and the commissioners court. (R.S. Art. 8104.)

§ 56.021. Engineer's Bond

The engineer shall execute a bond for \$500 with two or more sureties approved by the commissioners court, payable to the county judge for the use and benefit of the district, conditioned on the faithful performance of his duties under this chapter. (R.S. Art. 8105.)

§ 56.022. Survey and Preliminary Plans

(a) Within the time prescribed by the commissioners court, the engineer shall make a careful survey of the land proposed to be drained and protected by levees. For the purposes of the survey, the engineer may go on land located inside or outside the district, including land located in a different county.

(b) The engineer shall obtain information regarding land and outlets inside the proposed district from the Texas Water Development Board

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and from other sources, and he shall cooperate with the Texas Water Development Board in the discharge of its duties.

(c) The engineer shall use the survey to make preliminary plans:

- (1) locating approximately the necessary canals, drains, ditches, laterals, and levees;
- (2) designating the streams and bayous necessary to be cleaned, deepened, and straightened;
- (3) estimating the cost in detail of each contemplated improvement; and
- (4) estimating the probable annual cost of maintaining the improvements.

(d) The engineer shall ascertain and procure proper and necessary outlets for the proposed canals, drains, and ditches necessary to drain the district.

(e) The engineer shall immediately make a report of his work to the commissioners court. (R.S. Arts. 8106, 8107.)

§ 56.023. Map

(a) The engineer shall include with his report a map showing:

- (1) the beginning point and outlets of canals, drains, ditches, and laterals;
- (2) the length, width, depth, and slopes of the banks of any cut or excavation and the estimated number of cubic yards of earth necessary to be removed from each; and
- (3) the location and size of levees and the estimated number of cubic yards of earth necessary to construct them.

(b) The engineer will comply sufficiently with Subsection (a) of this section if he describes the boundaries and provides the other information required by that subsection on a copy of the official land office map of the county in which the proposed district is located. (R.S. Art. 8108.)

§ 56.024. Hearing on Preliminary Report

(a) At the first regular or special meeting of the commissioners court after the engineer files his preliminary report with the clerk, the commissioners court shall schedule the report for hearing at a regular or special meeting, which must be held during the period beginning on the 20th day and ending with the 30th day after the day the commissioners court schedules the hearing.

(b) The clerk shall post notice of the hearing on the preliminary report in the manner provided in Section 56.017 of this code.

(c) At the hearing, any resident or nonresident freehold taxpayer whose land may be affected by the improvements, may appear and object to any of the improvements because they are not located at the proper places or they are not sufficient in number or capacity to properly drain the territory. (R.S. Art. 8109.)

§ 56.025. Changing the Preliminary Report

(a) The commissioners court may change the location of any improvement shown in the preliminary report or may add to or reduce the number of improvements. The commissioners court may order the engineer to locate any additional canals, drains, ditches, or levees for the purpose of conducting water from the land of the district or to prevent overflow of water from streams or other bodies of water onto the land of the district to be drained.

(b) The commissioners court may refer the entire preliminary report to the engineer for compliance with its orders and may require the engineer to submit a further report.

(c) If material changes or alterations are made in the preliminary report, the clerk shall give notice, and the commissioners court shall hold a hearing in the manner provided for the original preliminary report. (R.S. Art. 8110, sen. 2, 3, 4.)

§ 56.026. Adopting the Preliminary Report

If there are no objections to the preliminary report or if the commissioners court finds that objections to the report are not valid, the report shall be approved and the approval entered in the minutes. (R.S. Art. 8110, sen. 1.)

§ 56.027. Election Order

After the engineer's report is approved, the commissioners court shall order an election held in the proposed district at the earliest legal time to determine whether or not the district should be created and whether or not the district should issue bonds and levy taxes to pay for the bonds. (R.S. Art. 8111 (part).)

§ 56.028. Notice of the Election

(a) The clerk shall post notice of the election as provided in Section 56.017 of this code.

(b) The notice shall state:

- (1) the proposed creation of the district;
- (2) the amount of bonds to be issued;
- (3) the time and places the election will be held;
- (4) the propositions to be voted on; and
- (5) the purposes for which the bonds are to be issued.

(c) The amount of the bonds stated in the notice may not be greater than the engineer's estimate and the cost of additional work made necessary by changes in the preliminary report. (R.S. Art. 8112.)

§ 56.029. Conduct of Election

(a) The commissioners court shall name a polling place for each precinct or part of a precinct in the proposed district and shall appoint judges and other election officials.

(b) The ballots shall be printed to provide for voting for or against: "The creation of the drainage district and the issuance of bonds and the levy of taxes to pay for the bonds."

(c) The proposition must be approved by a two-thirds vote at the election before it will carry. (R.S. Art. 8113, sen. 1, 4, 5 (part); R.S. Art. 8111 (part).)

§ 56.030. Returns; Canvass

Immediately after the election, each presiding judge shall make and deliver the returns in the same manner as returns are made and delivered in general elections and shall deliver the ballot boxes to the county clerk, who shall keep them in a safe place until he delivers them together with the returns to the commissioners court at its next regular meeting or at a special meeting called to canvass the vote. (R.S. Art. 8115, sen. 1.)

§ 56.031. Declaration of Result

(a) If the proposition carries, the commissioners court shall declare the result and enter the result in the minutes. (R.S. Art. 8115, sen. 2.)

(b) The order of the commissioners court declaring the result shall read substantially as follows:

“_____ and _____ others having petitioned for the creation of _____ County Drainage District No. _____; an election having been held in the proposed district on _____; and a two-thirds majority of the votes cast in the election having favored creation of the district, issuance of bonds, and levy of a tax; now, therefore, the commissioners court declares that _____ County Drainage District No. _____ is created, within the following metes and bounds: _____.” (R.S. Art. 8116.)

(Field Notes)

§ 56.032. Authorizing Existing Districts to Operate under Article XVI, Section 59, of the Texas Constitution

(a) Any existing district may be authorized to operate under the provisions of Article XVI, Section 59, of the Texas Constitution without change of name or impairment of obligations. (R.S. Art. 8195.)

(b) To operate under Article XVI, Section 59, of the Texas Constitution, the district shall present the petition and make the deposit required by Sections 56.014 and 56.015 of this code. The commissioners court, by order entered in its minutes, shall give notice and hold a hearing on the petition as required by Sections 56.017 and 56.018 of this code and may by order authorize the district to operate under the provisions of Article XVI, Section 59, of the Texas Constitution. (R.S. Art. 8176.)

(c) Any district operating under the provisions of this section is governed and controlled by the laws under which it was organized.

(d) Limitations imposed by Article III, Section 52, of the Texas Constitution and this chapter on debts to be incurred and taxes to be levied are not applicable to districts operating under Article XVI, Section 59, of the Texas Constitution. (R.S. Arts. 8196, 8197.)

[Sections 56.033–56.060 reserved for expansion]

SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

Section 56.061. Creation of Board

When a district is established, the commissioners court shall appoint three directors for the district. (R.S. Art. 8118, sen. 1 (part).)

§ 56.062. Qualification of Directors

To qualify as a director, a person must

(1) be a resident of the county in which the district is located or an adjoining county;

(2) be a freehold taxpayer of the district; and

(3) be a qualified elector of the county of his residence. (R.S. Art. 8118, sen. 1 (part).)

§ 56.063. Term of Office, Removal, and Succession

(a) Directors hold office for a term of two years and until their successors have qualified, and on expiration of a director's term or on resignation of a director, the commissioners court by a majority vote shall appoint a successor.

(b) The commissioners court by majority vote may remove a director from office for malfeasance in office. (R.S. Art. 8118, sen. 2, 3.)

§ 56.064. Election of Directors

(a) On petition of a majority of the real property taxpayers of a district requesting an election of district directors, the commissioners court shall immediately order an election to be held at the earliest legal time. The election shall be held as other elections under this chapter.

(b) The commissioners court shall declare the three persons receiving the highest number of votes elected, and if two or more persons tie for the third-highest vote, the commissioners court shall elect the third director from those tying for the place.

(c) On qualifying for office, directors elected under this section are the legal and rightful directors of the district within the full meaning and purpose of this law.

(d) The first elected directors of the district hold office until the next regular election for state and county officers, and subsequent directors of the district are elected every two years at the general election. (R.S. Art. 8119.)

§ 56.065. Director's Oath

Before beginning to perform his duties, each director shall take and subscribe before the county judge an oath to discharge faithfully the duties of his office without favor or partiality and to render a true account of his activities when requested by the commissioners court. The clerk of the court shall file the oath, and the oath shall be a part of the district records. (R.S. Art. 8121.)

§ 56.066. Director's Bond

Before beginning to perform his duties, each director shall execute a good and sufficient bond for \$1,000, payable to the county judge for the use and benefit of the district, conditioned on the faithful performance of his duties. (R.S. Art. 8122.)

§ 56.067. Director's Compensation

(a) The directors of any district are entitled to receive for their services not more than \$7.50 a day for the time actually engaged in the work of the district. The commissioners court shall establish the amount of compensation by order.

(b) Before the directors' accounts are approved, the directors shall submit to the commissioners court a detailed written report, under oath, showing the time actually spent in working for the district and describing the work done. The commissioners court shall audit the report and allow the amount determined by it. (R.S. Art. 8120, sen. 1, 2 (part), as amended.)

§ 56.068. Organization of Board

(a) The board of directors shall organize by electing one director as president and one director as secretary.

(b) Two directors constitute a quorum to transact all business of the district except letting contracts and drawing warrants on the treasury. Letting contracts and drawing warrants on the treasury require the concurrence of all the directors. (R.S. Art. 8123.)

§ 56.069. Transfer of Board's Power to Commissioners Court

(a) The functions, powers, rights, and duties exercised by or relating to the board of any district may be transferred to the commissioners court of the county in which the district is wholly located, but before the transfer is made, the commissioners court and the board must pass resolutions authorizing the transfer.

(b) After the transfer is made, the commissioners court shall be the sole governing body of the district and shall exercise the functions, powers, rights, and duties transferred.

(c) The members of the commissioners court are not entitled to receive any compensation for the exercise of these functions, powers, rights, and duties. (45th Legis., 2nd C.S., Ch. 28, Sec. 5.)

§ 56.070. Treasurer

The county treasurer is the treasurer of the district. (R.S. Art. 8147, sen. 1 (part).)

§ 56.071. Treasurer's Bond

(a) The county treasurer shall execute a good and sufficient bond payable to and approved by the board, conditioned on the faithful performance of his duties as treasurer. The bond shall be in an amount equal to the amount of the bonds issued.

(b) If a district depository is selected, the county treasurer shall execute a bond conditioned on the faithful performance of his duties pursuant to the law relating to county treasurers in counties which have county depositories. (R.S. Art. 8147, sen. 1 (part), 2.)

§ 56.072. Treasurer's Compensation

The treasurer is entitled to receive for his services one-fourth of one percent of the money received by him for the account of the district and one-eighth of one percent of the money paid out by him on order of the district. The treasurer is not entitled to receive any commissions on district money he receives from his predecessor in office. (R.S. Art. 8148.)

§ 56.073. Tax Assessor and Collector

The county assessor and collector shall be charged by the commissioners court with the district's assessment rolls. (R.S. Art. 8143, sen. 1 (part).)

§ 56.074. Tax Assessor and Collector's Bond

(a) The commissioners court shall require the assessor and collector to execute an additional bond or security in any amount it considers proper and safe to secure the collection of the taxes.

(b) If the assessor and collector refuses to give the additional security within the time provided by law for this purpose, the commissioners court shall suspend him from office, and immediately after suspension, he shall be removed from office as provided by law. (R.S. Art. 8143, sen. 2, 3.)

§ 56.075. Tax Assessor and Collector's Compensation

The assessor and collector shall be allowed the same compensation for collecting the taxes of the district that is allowed for collecting other taxes. (R.S. Art. 8143, sen. 1 (part).)

§ 56.076. Board of Equalization

The commissioners court shall serve as the board of equalization for the district, and laws governing boards of equalization for state and county taxing purposes shall govern the district board. (R.S. Art. 8140, sen. 2.)

§ 56.077. Separate Assessor and Collector, and Board of Equalization

(a) After a district is created and on the petition of 25 resident freeholders of the district, the commissioners court may order an election to determine whether or not the district will have a separate tax assessor and collector and board of equalization to assess, collect, and equalize taxes. Notice of the election shall be given as in the original election.

(b) If the proposition is approved by a two-thirds vote, the commissioners court shall appoint a suitable person as assessor and collector, and the appointee shall execute a bond and exercise the same powers and perform the same duties as the county assessor and collector. The board shall exercise the powers relating to equalizing taxes conferred on the commissioners court by this chapter.

(c) The general law relating to assessing, collecting, and equalizing taxes applies to assessing, collecting, and equalizing district taxes. (R.S. Art. 8145.)

§ 56.078. District Engineer

The board shall appoint a competent civil engineer, who may appoint necessary assistants. (R.S. Art. 8124, sen. 1.)

§ 56.079. Engineer's and Assistant's Compensation and Expenses

The engineer and his assistants are entitled to receive the pay, transportation allowance, supplies, and other things agreed on by the engineer and the board and approved by the commissioners court. (R.S. Art. 8124, sen. 2.)

§ 56.080. District Lawyer

The board may employ a lawyer

- (1) to prepare contracts for the district;
 - (2) to conduct proceedings for the district in and out of court;
- and
- (3) to be the board's legal adviser. (R.S. Art. 8173 (part).)

§ 56.081. Lawyer's Compensation

The lawyer is entitled to receive the fees agreed on by him and the board and approved by the county judge. The board shall draw warrants to pay for the legal services. (R.S. Art. 8173 (part).)

§ 56.082. Hearing; Powers of the Commissioners Court

(a) Except as otherwise provided in this chapter, the commissioners court has exclusive jurisdiction to hear and determine

- (1) contests and objections to creating a district;
- (2) matters relating to creating a district; and
- (3) all proceedings of a district after it is organized.

(b) The commissioners court may adjourn a hearing from day to day, and the judgment of the commissioners court rendered under Subsection (a) of this section is final. (R.S. Art. 8102.)

§ 56.083. Court Actions

(a) A district through its board may sue and be sued in the courts of this state in the name of the district, and the courts of this state shall take judicial notice of the establishment of all drainage districts. (R.S. Art. 8174.)

(b) Only suits in the name of the state by the attorney general on his own motion or on motion of any affected party showing good cause may be brought in courts of this state to enjoin the formation of a district or to contest the validity of any district or its bonds. (R.S. Art. 8175.)

[Sections 56.084–56.110 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES

Section 56.111. Control and Repair of District Improvements

The board may control and supervise the construction and maintenance of canals, drains, ditches and levees, and other improvements of the district and shall keep them in repair. (R.S. Art. 8154.)

§ 56.112. Report of the Board

(a) The board shall make semiannual reports of their actions, including a financial statement showing receipts and disbursements of funds subject to orders of the board.

(b) The board's report shall state in detail

- (1) the kind, amount, and character of work done by the district;
- (2) the cost of work done by the district;
- (3) the amounts paid out in orders of the board;
- (4) the purposes for which the amounts were paid;
- (5) the persons to whom the amounts were paid;
- (6) dates, amounts, and details of receipts and disbursements;

and

- (7) other data to show the condition of improvements made under this chapter.

(c) The board shall file the report with the county clerk on or before the first day of January and July of each year and shall publish a copy of the report once a week for two consecutive weeks immediately follow-

ing the first day of January and July of each year in a newspaper published in the county. (R.S. Art. 8172.)

§ 56.113. Authority to go on Land Inside and Outside the District

The board and the engineer, together with necessary teams, help, tools, and implements, may go on land located inside and outside the district to examine the land, to locate canals, drains, ditches, levees, and necessary outlets and to make plans, surveys, maps, and profiles. (P.C. Art. 852, sen. 1.)

§ 56.114. Resisting District Officer

Any person who wilfully prevents or prohibits any officer from entering land for the purposes stated in Section 56.113 of this code, upon conviction, is punishable by a fine of not more than \$25 for each day he prevents or hinders the officer. (P.C. Art. 852, sen. 2.)

§ 56.115. Duties of the Engineer

- (a) The engineer shall make a map of the district showing:
 - (1) the boundary lines of the district;
 - (2) the original surveys within the boundaries of the district; and
 - (3) the number of acres in an original survey which are included in the district if the boundary lines of the district cross the original survey.
- (b) The engineer shall make maps and profiles of the canals, drains, ditches, and levees located in the district and their outlets extending beyond the boundaries of the district.
- (c) A copy of the land office map of the county which shows the name and number of each survey and the area or number of acres within the district is sufficient to comply with the requirement for a map of the district, and any recognized map of a city or town in the district is sufficient to comply with the requirement for a map of that city or town. (R.S. Art. 8125.)

§ 56.116. Maps and Estimates

- (a) The map and profile shall include the relation that each canal, drain, ditch, or levee bears to each tract of land through which it passes and the shape into which the canal, drain, ditch, or levee divides each tract.
- (b) If any canal, drain, ditch, or levee cuts off any tract containing less than 20 acres of land, the map shall show:
 - (1) the number of acres divided from the tract;
 - (2) the number of acres in the whole tract;
 - (3) the shape of the small tract; and
 - (4) the relation of the small tract to the canal, ditch, drain, or levee.
- (c) The profile may show the number of cubic yards necessary to be excavated to make each canal, drain, or ditch and to build any levee located in the district and may give the estimated cost of each.
- (d) When the map, profile, and estimates are completed, the engineer shall sign them in his official capacity and file them with the clerk of the commissioners court. (R.S. Art. 8126.)

§ 56.117. Duty to Construct Improvements

Improvements included in the engineer's report and adopted by the commissioners court shall be constructed. (R.S. Art. 8155, sen. 2.)

§ 56.118. Right-of-Way

The board may acquire by gift, grant, purchase, or condemnation the necessary rights-of-way for all canals, drains, ditches and levees, and other necessary improvements. If the rights-of-way are acquired by purchase, the commissioners court must approve it. (R.S. Art. 8152.)

§ 56.119. Eminent Domain

(a) Any district may exercise the power of eminent domain to condemn and acquire the right-of-way over and through public and private lands necessary for making canals, drains, levees, and improvements in the district and for making necessary outlets to any county in the state. A district which is not operating under Article XVI, Section 59, of the Texas Constitution may not condemn property used for cemetery purposes. No district may condemn right-of-way through any part of any incorporated city without the consent of the lawful authorities.

(b) Eminent domain proceedings shall be in the name of the district and under the direction of the board, and expenses arising from the proceedings shall be paid from the construction and maintenance fund.

(c) An appeal from the finding and assessment of damage made by commissioners appointed for that purpose shall not suspend work of the board in providing drainage. (R.S. Art. 8151.)

§ 56.120. Railroad Culverts

(a) At the expense of the district, the board may construct necessary bridges and culverts across or under a track or right-of-way of a railroad to enable the district to construct and maintain a necessary canal, drain, or ditch.

(b) Before the board constructs a bridge or culvert, the board shall give notice to the railroad authorities authorized to build or construct bridges and culverts and shall allow the railroad 30 days to build the bridge or culvert at its own expense and according to its own plans.

(c) Bridges or culverts shall be constructed so they will not interfere with the free and unobstructed flow of water passing through the canals and drains and shall be placed at points designated by the engineer. (R.S. Art. 8160.)

§ 56.121. Road Culverts

The board shall build necessary bridges and culverts across or over canals, drains, ditches, laterals, and levees which cross a county or public road and shall pay for the construction with funds of the district. (R.S. Art. 8161.)

§ 56.122. Constructing Bridges and Culverts in Certain Counties

(a) If it is necessary to build a bridge or culvert across or over a state highway located in a county having a population of more than 350,000 inhabitants, according to the last preceding federal census, the board may construct or assist in constructing the bridge or culvert.

(b) After the bridge or culvert is constructed, the board may pay or may join with any county or other governmental agency or subdivision to

pay the expenses of making necessary and needed repairs. The expenses shall be paid from the funds of the district. (44th Legis., Ch. 117, Sec. 1, sen. 2, 3, and Sec. 6, sen. 1.)

§ 56.123. Change in Plans Without Additional Expenditures

(a) After the commissioners court authorizes bonds to be issued, the board may make changes in the district or its improvements which will be an advantage to the district but which will not increase the cost of the proposed work beyond the amount of bonds authorized.

(b) The board may make the changes by entering on their minutes a notation of the changes, with the district maps and profiles showing the changes. Notice of the changes shall be given by publishing the notation with the book and page number of the minutes for two consecutive weeks in a newspaper of general circulation published in the English language in the county in which the district is located. (R.S. Art. 8128.)

§ 56.124. Change in Plans With Additional Expenditures

(a) If the board decides that changes or additions in the preliminary survey would be of advantage to the district but would necessitate issuing additional bonds of the district, it shall certify to the commissioners court the need for additional bond authorization and transmit the certification with maps and profiles prepared by the district engineer showing the changes and their estimated cost

(b) At the first regular meeting after the documents are filed, the commissioners court shall give notice of an election to determine whether or not the changes and improvements should be made and shall order the election held within the time and the returns made as provided in the original election.

(c) If two-thirds of the electors of the district vote in favor of the proposition, the board shall enter the approval in the records and shall order the bonds issued as in the manner provided for issuance of the original bonds. (R.S. Art. 8129.)

§ 56.125. Additional Improvements

(a) After completion of improvements, including bridges and culverts, and after payment of all expenses, if surplus money or bonds remain to the credit of the district, the board may order the engineer to make a detailed report of additional or supplemental drains, ditches, levees, or other surface drainage improvements, including tile drainage, which are needed by the district. The engineer shall make the report and the board shall act on the report in the manner provided in this chapter for the initial report of the engineer. (R.S. Art. 8162, sen. 1, 2.)

(b) After the engineer's report is approved or modified by the commissioners court, the court shall order an election to be held in the district at the earliest legal time. The only proposition that may be submitted at the election is whether or not the district will construct additional improvements and pay for them with funds currently available. A majority of those persons voting at the election must approve the proposition for it to carry.

(c) Notice of the election shall be given, election officials appointed, returns made and canvassed, and the result declared as provided in Sections 56.027-56.031 of this code. The notice of election shall state:

(1) the character and scope of the proposed improvements;

- (2) the estimated cost of the proposed improvements; and
- (3) the time and place for holding the election. (R.S. Art. 8163.)
- (d) The provisions of this chapter relating to awarding contracts, constructing improvements, and the authority of the board and the commissioners court to award contracts and construct improvements apply as far as applicable to constructing and paying for additional improvements. (R.S. Art. 8164.)
- (e) The estimated cost of the additional improvements may not be more than the amount of surplus money or bonds to the credit of the district. (R.S. Art. 8162, sen. 3.)

§ 56.126. Changes, Additions, and Improvements

When the board determines that a necessity exists, it may make changes in, additions to, and improvements in the drainage system of the district and shall pay for the changes, additions, and improvements with funds collected under the provisions of Section 56.242 of this code. (50th Legis., Ch. 165, Sec. 1.)

§ 56.127. Maintenance Report

- (a) On or before the first day of July of each year, the board shall file with the commissioners court a detailed maintenance report. The report shall include:
 - (1) the condition of improvements previously made in the district;
 - (2) an estimate of the probable cost of maintenance and repairs during the next year;
 - (3) an inventory of funds, effects, property, and accounts belonging to the district; and
 - (4) a list of lawful demands, debts, and obligations of the district.
- (b) The board shall verify the report, and the commissioners court shall carefully investigate it before any taxes are levied under Section 56.241 of this code. (R.S. Art. 8137.)

§ 56.128. Injuring Drainage Canal or Ditch

Any person who wilfully fills up, cuts, injures, destroys, or impairs the usefulness of any canal, drain, ditch, watercourse, or other work constructed, repaired, or improved by a district to drain and protect from overflow of water, upon conviction is punishable by confinement in the county jail for not more than two months or by a fine of not more than \$100. (P.C. Art. 1356.)

§ 56.129. Bid Procedure

- (a) Before awarding any contracts for construction or necessary work, the board shall advertise for bids once a week for four consecutive weeks in one or more newspapers of general circulation in the state and shall post notice that the board is taking bids for at least 25 days at five public places in the county, including one copy posted at the courthouse door and at least two copies posted elsewhere in the district. (R.S. Art. 8155, sen. 1 (part).)
- (b) On application, the board shall furnish to any person who desires to bid on construction work advertised under Subsection (a) of this section a copy of the engineer's report showing the locations, profiles, and estimates on the work.

(c) Each bid shall be in writing, sealed, and accompanied by a certified check for five percent of the total amount of the bid and shall be delivered to the chairman of the board. If a bidder whose bid is accepted by the district refuses to enter into a proper contract with the district, the bidder shall forfeit the certified check which accompanied his bid. (R.S. Art. 8156, sen. 1, 2.)

(d) The board shall award the contract to the lowest bidder and may reject any bid it considers to be too high. The contracts may be awarded separately or together. (R.S. Art. 8155, sen. 1 (part), 2; R.S. Art. 8156, sen. 3.)

§ 56.130. Requisites of a District Contract

Each contract shall be in writing, signed by the contractor and the board, and approved by the county judge, and a copy of the contract shall be filed with the county clerk. (R.S. Art. 8158.)

§ 56.131. Contract Payments

(a) On completion of any contract except a contract awarded on a partial payment plan, the board shall draw a warrant on the treasurer in favor of the contractor or his assignee for the amount of the contract price.

(b) To obtain more favorable contracts, the board may advertise and contract for work to be paid for in partial payments as the work progresses, but the aggregate amount of the partial payments may not be more than 75 percent of the total amount to be paid under the contract.

(c) The engineer shall make a certified report showing the amount of work completed under any contract, and payment shall not be made for incomplete work. (R.S. Art. 8166.)

§ 56.132. Contractor's Bond

The contractor shall execute a bond for the amount of the contract price, payable to the board and approved by the board and the county judge, conditioned on the faithful performance of the obligations, agreements, and covenants in the contract and that in the event of default, the contractor will pay to the district damages sustained as a result of the default. (R.S. Art. 8157.)

§ 56.133. Duties of the Engineer

(a) The engineer shall furnish to the contractor a sectionized profile of the contract work. The profile shall show:

(1) the depth, width, and slope of canals, drains, ditches, and levees;

(2) the number of cubic yards of earth to be removed; and

(3) other work to be done by the contractor.

(b) The contractor shall do the work under the supervision of the engineer, who shall indicate to the contractor the points at which the laterals shall intersect the main canal.

(c) The contractor may not deposit earth at a place at which it will interfere with constructing laterals or other improvements in the district or building bridges or other improvements on the public roads.

(d) After the work is completed under the contract, the engineer shall make a detailed report to the board showing whether or not the contract has been complied with fully, and if not, the extent of noncompliance. (R.S. Art. 8159.)

§ 56.134. Inspection of Work

The board shall inspect any work done under contract as the work progresses. (R.S. Art. 8165.)

§ 56.135. Interest in Drainage Contract

A county judge, county commissioner, drainage commissioner, or drainage engineer who becomes interested in any contract for construction of any work by the district or in any fee paid by the district from which he will receive money, consideration, or other thing of value, upon conviction is punishable by confinement in the county jail for not less than six months nor more than one year. (P.C. Art. 376.)

§ 56.136. Purchases of and Contracts for Less Than \$50 by Districts in Certain Counties

(a) On requisition signed by at least two directors, the board of any district located in a county having a population of more than 350,000 inhabitants, according to the last preceding federal census, may make purchases or contracts in any amount of not more than \$50.

(b) In cases of emergency, the board does not have to take bids.

(c) Before the purchase or contract is made, the commissioners court shall issue the requisition in triplicate with copies to be delivered to the person from whom the purchase is being made or with whom the contract is being made and to the county auditor. A copy also shall be filed with the board. (44th Legis., Ch. 117, Sec. 2, and Sec. 6, sen. 1.)

§ 56.137. Purchases of and Contracts for More Than \$50 But Less Than \$500 by Districts in Certain Counties

(a) If purchases or contracts to be made by any district located in a county having a population of more than 350,000 inhabitants, according to the last preceding federal census, are in an amount more than \$50 but not more than \$500, the district shall ask for sealed bids from at least three persons and shall accept as many more bids as are offered. It is not necessary to advertise for sealed bids.

(b) The bids shall be based on written specifications filed with the county auditor before the beginning of the 48-hour period immediately preceding the time for the bidding to open.

(c) The board shall award the contract to the lowest and best bidder, but before the contract is executed or the supplies furnished, at least two of the directors shall issue to the contractor a requisition. A copy of the requisition shall be filed with the county auditor. (44th Legis., Ch. 117, Sec. 3, and Sec. 6, sen. 1.)

§ 56.138. Expenditures Exceeding \$500 by Districts in Certain Counties

(a) If any district located in a county having a population of more than 350,000 inhabitants, according to the last preceding federal census, plans to spend more than \$500 on any contract or purchase, the district shall prepare and file with the county auditor specifications covering the material or supplies to be purchased or the work to be performed.

(b) The county auditor shall advertise for bids once a week for two consecutive weeks in a newspaper published in the county in which the district is located. The advertisement shall include the time and place for opening the bids and the place at which the specifications may be obtained.

(c) Each bidder shall include with his bid a certified check on a Texas bank for five percent of the amount of the bid, conditioned that the successful bidder will enter into a contract, and a bond in an amount equal to the amount of the contract executed by a surety company authorized to do business in Texas.

(d) At an open meeting, the commissioners shall award the contract to the lowest and best bidder. The contract shall be made in writing, and together with the bond and original bids shall be filed in the office of the county auditor as part of the records of his office.

(e) Before any supplies are furnished or delivered or any work performed, at least two directors of the district shall issue and file with the county auditor a requisition covering the contract or purchase. The contract or purchase is not binding until the requisition is issued and filed. (44th Legis., Ch. 117, Sec. 4, and Sec. 6, sen. 1.)

§ 56.139. County Auditor's Endorsement

Before a requisition is issued or a contract approved under Section 56.136, 56.137, or 56.138 of this code, the county auditor must endorse on the requisition or contract his certificate that the contract is made or the requisition is authorized in conformity with law and that funds are available or will be available to make payment when due. (44th Legis., Ch. 117, Sec. 5.)

§ 56.140. Public and Private Improvements

(a) Canals, drains, ditches, and levees which are constructed by a district and watercourses which are cleaned or constructed by a district are the public property of the district.

(b) A person who owns land in the district may drain into one or more of the public drains, and at his own expense, the landowner may make drains according to the natural slope of the land through other lands intervening between his land and the nearest public drain or watercourse or along any public highway.

(c) Before constructing any drains, the landowner shall notify the board of his intention to construct a drain through another person's land or along a public highway, and the directors shall go on the premises and acting as a jury of view shall determine the place for constructing the drain. (R.S. Art. 8153.)

§ 56.141. Outside Drains

(a) Before a person artificially drains adjacent land located outside the district into the canals, drains, or ditches of the district, the person must submit a written application to the board, and the board must grant permission to make the connections. The application shall include the width, depth, and length of the connecting drains and ditches. (R.S. Art. 8167.)

(b) When the application is filed with the board, the engineer shall estimate the quantity of water which the connecting drains or ditches would probably empty into the established canals or drains and shall indicate whether or not the established canals or drains have sufficient capacity to carry the excess water without risk or damage to the canals, drains, or adjacent territory. The engineer shall report to the board the result of his examination and his estimate. (R.S. Art. 8168.)

(c) Unless an agreement is reached with the applicants, the commissioners may authorize the connection on condition that the applicant first pay to the construction and maintenance fund an amount of money which bears the same ratio to the cost of the original canal or drain from the point of connection to its outlet as the water to be emptied into the canal or drain by the connecting drains bears to the water then flowing into and being carried by the original canal or drain as estimated by the engineer. (R.S. Art. 8169.)

§ 56.142. Enlargement of Canals, Drains, and Other Outlets

(a) If the engineer's report indicates that the capacity of the canals, drains, or outlets of the district are insufficient to carry the excess water that would be discharged into them by connecting drains or that the additional discharge of water will endanger the canals and drains or the lands and property adjacent to them, the commissioners court in the county in which the district is located may give the applicant permission to construct connecting drains and secure the desired outlet on condition that the applicant make necessary enlargements of the canals and drains of the district at the applicant's own expense. The increased capacity of the canals of the district shall be sufficient to carry any increase of water caused by the connection without danger to canals and drains or lands adjacent to them. (R.S. Art. 8170.)

(b) The engineer shall supervise and direct the enlargement of the canals and drains, and after the work is completed to his satisfaction, the engineer shall report to the commissioners court under his official certificate. The report shall show:

- (1) the kind of work done;
- (2) the extent of the work;
- (3) the new capacity to be sufficient to carry excess water from the connecting drain;
- (4) the number of days spent by the engineer supervising the work; and
- (5) the amount due to the engineer for his services.

(c) On approving the engineer's report, the commissioners court shall issue an order authorizing the connections to be made with the canals and drains on payment of the amount due to the engineer as shown by the engineer's report and shall order the applicant to pay the engineer's salary. (R.S. Art. 8171.)

§ 56.143. Contract for Improvements with the United States

(a) Any district which is converted under Section 56.032 of this code and which lies wholly within one county may enter into contracts with the United States, including the Bureau of Reclamation of the Department of Interior, to construct improvements.

(b) The board must approve the project, plans and specifications, and methods of constructing or reconstructing the improvements.

(c) After approval, the board may execute a contract for a specified number of years or until the plans or programs of the district are completed and shall pay the obligations incurred under the contract by issuing bonds that are approved by the voters in the manner provided for issuing other bonds of the district. The board shall deliver the bonds to the United States. (55th Legis., Ch. 105, Sec. 1, subsec. (5).)

[Sections 56.144–56.180 reserved for expansion]

SUBCHAPTER E. GENERAL FISCAL PROVISIONS**Section 56.181. Duties of the Treasurer**

(a) The county treasurer shall open an account for each district and shall keep an accurate account of money received by him and paid out by him for each district.

(b) The county treasurer shall pay out money only on vouchers signed by the board and countersigned by the county judge, and he shall keep a file of all orders for payment of money.

(c) On request of the board or the commissioners court, the county treasurer shall render a correct account of matters relating to the financial condition of the district. (R.S. Art. 8146.)

§ 56.182. District Funds

(a) The construction and maintenance fund consists of money, effects, property, and proceeds received by the district from any source except that portion of tax collections necessary to pay principal and interest on bonded indebtedness.

(b) The interest and sinking fund consists of that portion of tax collections necessary for paying principal and interest on bonded indebtedness, and this fund may be invested for the benefit of the district in bonds and securities approved by the attorney general.

(c) Each fund shall be held for the purpose for which it was created, and if money is improperly paid from either fund, the commissioners court may have the county treasurer transfer money in the two funds to restore the fund which was improperly used. (R.S. Art. 8150, sen. 1 (part), 2, 3.)

§ 56.183. Payment of Expenses, Debts, and Obligations of the District

After any district is established, legal and just expenses, debts, and obligations, except bonded indebtedness, arising and created after the filing of the petition to create the district and necessarily incurred in creating, establishing, operating, and maintaining the district shall be paid from the construction and maintenance fund. (R.S. Art. 8150, sen. 1 (part).)

§ 56.184. District Depository

(a) The board may provide for a district depository under the laws relating to the designation of a county depository and may exercise the same powers with relation to district funds that are exercised by the commissioners court in designating a county depository.

(b) The depository shall execute a good and sufficient bond, approved by the board, as provided by law for county depositories. (R.S. Art. 8149.)

[Sections 56.185–56.200 reserved for expansion]

SUBCHAPTER F. ISSUANCE OF BONDS**Section 56.201. Authority to Issue Bonds**

Any district may issue bonds as provided in this chapter to pay for drainage improvements. (R.S. Art. 8097, sen. 3.)

§ 56.202. Issuance of Bonds

When maps, profiles, and estimates are filed, the commissioners court shall issue an order directing the issuance of bonds sufficient to pay for proposed improvements together with necessary, actual, and incidental expenses. The bonds may not be issued in an amount greater than the amount specified in the order and notice of election, and in districts operating under Article III, Section 52, of the Texas Constitution, the bonds may not be issued in an amount greater than one-fourth of the assessed valuation of the real property of the district. (R.S. Art. 8127.)

§ 56.203. Record Book for Bonds

(a) Before any bonds are issued, the commissioners court shall provide a well-bound book in which the county clerk shall keep a record of:

- (1) all bonds which have been issued;
- (2) the numbers of the bonds;
- (3) the amount of the bonds;
- (4) the rate of interest on the bonds;
- (5) the date of issuance of the bonds;
- (6) the date on which the bonds are due;
- (7) the place where the bonds are payable;
- (8) the amount received for the bonds;
- (9) the annual rate of assessment to pay interest on and provide a sinking fund for the bonds; and
- (10) the payment of each bond.

(b) The county clerk shall keep the book open at all times for public inspection by district taxpayers and bondholders.

(c) The county clerk is entitled to receive for recording district bonds and other instruments the same fees allowed by law for recording other similar records. (R.S. Art. 8130.)

§ 56.204. Bonds: Requisites

(a) Bonds shall be issued in the name of the district, signed by the county judge, and attested by the county clerk, and each bond shall have the seal of the commissioners court affixed to it.

(b) The bonds shall be issued in denominations of not less than \$100 nor more than \$1,000 and shall bear interest which is payable annually or semiannually.

(c) The terms of the bonds shall include the time, places, manner, and conditions of payment and the rate of interest determined and ordered by the commissioners court.

(d) The bonds shall be paid not later than 40 years from the date they are issued. (R.S. Art. 8131.)

§ 56.205. Bonds: Approval

(a) Before any bonds are offered for sale, the district shall submit to the attorney general

- (1) a copy of the bonds;
- (2) a certified copy of the commissioners court order levying a tax to pay interest and create a sinking fund;
- (3) a statement of the district's total bonded indebtedness including the value of the bonds proposed to be issued and the value of

taxable property in the district as shown by the last official assessment of the county; and

(4) other information the attorney general requires.

(b) The attorney general shall examine the bonds carefully and shall certify them if he finds that they conform to the constitution and laws of this state and are valid and binding obligations of the district. (R.S. Art. 8132.)

§ 56.206. Bonds: Registration

(a) When the attorney general approves the bonds, the comptroller shall register them in a book kept for that purpose and shall record the attorney general's certificate for use in possible future litigation. After the bonds are registered, they are prima facie valid and binding obligations in any action, suit, or proceeding.

(b) In a suit to enforce collection of the bonds, the attorney general's certificate or a certified copy of it shall be admitted and received in evidence as prima facie proof of the validity of the bonds and attached coupons, and the only defense against the validity of the bonds is forgery or fraud. (R.S. Art. 8133.)

§ 56.207. Bonds: Sale

(a) When the bonds are registered, the county judge, under the direction of the commissioners court, shall advertise and sell the bonds on the best terms and for the best price possible.

(b) The county judge shall pay to the county treasurer all money from the sale of the bonds as it is received, and the county treasurer shall place the money in the construction and maintenance fund to the credit of the district.

(c) The county judge is entitled to receive one-half of one percent of the amount received from the sale of bonds sold by him as payment for his services. (R.S. Art. 8134.)

§ 56.208. Bond of County Judge

(a) After the bonds are registered, the county judge shall immediately execute a good and sufficient bond in an amount not less than the amount of the bonds issued, payable to and approved by the board, conditioned on the faithful discharge of his duties.

(b) If the bond is executed by a satisfactory surety company, the district may pay a reasonable amount as premium on the bond. The premium shall be paid from the construction and maintenance fund on presentation to the board of a bill for the premium. The board may deduct the premium from the commissions allowed the county judge on the sale of bonds.

(c) If there is any controversy as to the reasonableness of the amount claimed as premium, the controversy may be settled by any court of competent jurisdiction. (R.S. Art. 8135.)

§ 56.209. Use of Unsold Bonds for Maintenance Purposes

If any bonds remain unsold which are not required to complete improvements, the commissioners court may enter its consent on the public record to sell the bonds and place the proceeds in the construction and

maintenance fund for use in accomplishing the purposes stated in Section 56.242 of this code. (R.S. Art. 8139.)

§ 56.210. Refunding Bonds

(a) With the consent of the bondholders, a district may refund outstanding bonds by issuing new coupon bonds in their place.

(b) Interest is shown by coupons attached to the bonds. The commissioners court may pay the interest on the bonds annually or semiannually.

(c) The commissioners court may pay the refunding bonds serially, or in any other manner they choose, but in districts which are not operating under Article XVI, Section 59, of the Texas Constitution, it shall pay the bonds not later than 40 years from the date the bonds are issued.

(d) The district shall issue the bonds in denominations of \$100 or a multiple of \$100, and shall levy a tax sufficient to meet the payment of principal and interest of the refunding bonds before the bonds are delivered.

(e) The commissioners court shall issue refunding bonds in the manner provided for other district bonds, and shall deduct any sum on hand to the credit of any sinking fund account in ascertaining the amount of refunding bonds to be issued. This sum shall be applied to the payment of the outstanding bonds.

(f) The commissioners court shall not issue refunding bonds until they are approved by the attorney general and registered by the comptroller. The comptroller shall not register the refunding bonds until the old bonds being replaced are presented to him for cancellation. After the comptroller registers the new bonds, he shall cancel the old bonds and interest coupons and deliver the new bonds to the proper bondholders. The district may present the old bonds for cancellation in installments, and the comptroller may register and deliver a like amount of the new bonds.

(g) In a district operating under Article XVI, Section 59, of the Texas Constitution, if the holders of outstanding bonds do not consent to the exchange of their bonds for refunding bonds, the refunding bonds may be sold and the proceeds applied to the purchase of the outstanding bonds when they become payable under an option of prepayment contained in the bonds or when the bondholders will accept payment. (R.S. Art. 8136a; R.S. Art. 8197a, as amended.)

§ 56.211. Refunding Bond Election

(a) If indebtedness to be refunded includes obligations other than voted bonds, in any district operating under Article XVI, Section 59, of the Texas Constitution, before the refunding bonds may be issued, a majority of the electors of the district voting at an election called for that purpose must vote in favor of issuing the refunding bonds and levying a tax to pay for the bonds.

(b) The commissioners court shall call the election and the clerk of the court shall give notice of the time and places for holding the election.

(c) The notice shall be signed by the clerk and shall

- (1) state the purpose of the election;
- (2) state the proposition to be voted on;
- (3) define the election precincts;

- (4) prescribe the polling places in the district; and
- (5) list the names of the election officers.

(d) The notice shall be published once a week for three consecutive weeks in a newspaper of general circulation in the county in which the district is located, but if a newspaper is not published in the county, the notice shall be published in the nearest county. The first publication shall be at least 20 days before the day of the election. (45th Legis., 2nd C.S., Ch. 28, Sec. 3, sen. 1, 2, 3, 4, 5.)

§ 56.212. Approval and Issuance of Refunding Bonds

(a) If the commissioners court declares the result of the election under Section 56.211 of this code to favor the issuance of refunding bonds and the levy of a tax to pay for the bonds, refunding bonds with the seal of the commissioners court affixed to them may be issued in the name of the district. The bonds shall be signed by the county judge, attested by the county clerk, and registered by the county treasurer.

(b) The bonds together with the record relating to them shall be submitted to the attorney general for his approval.

(c) When the attorney general approves the bonds, they shall be delivered to the comptroller who shall register them and deliver them in exchange for or on release of the obligations being refunded at the time, in the manner, and in the amounts prescribed in the order of the commissioners court. If the obligations being refunded are evidenced by outstanding securities, the comptroller shall cancel the outstanding securities concurrently with the registration and delivery of the bonds.

(d) When the refunding bonds are approved by the attorney general and registered and delivered by the comptroller, the bonds are valid and binding obligations of the district and are incontestable for any cause. (45th Legis., 2nd C.S., Ch. 28, Sec. 4.)

[Sections 56.213–56.240 reserved for expansion]

SUBCHAPTER G. TAXATION PROVISIONS

Section 56.241. Levy of Taxes to Pay for Bonds

After bonds are authorized at an election, the commissioners court shall have taxes annually assessed and collected on all property in the district sufficient to pay interest and principal on the bonds. Taxes collected under this section shall be placed in the interest and sinking fund. (R.S. Art. 8136.)

§ 56.242. Maintenance Tax

(a) At the same time that taxes are levied to pay bonded indebtedness, the commissioners court shall have a tax assessed and collected on district property sufficient to maintain, repair, and preserve district improvements and to pay legal debts, demands, and obligations of the district, but in districts operating under Article III, Section 52, of the Texas Constitution, the tax may not be in an amount greater than one-half of one percent of the total assessed valuation of the district for that year.

(b) Taxes collected under this section shall be placed in the construction and maintenance fund. (R.S. Art. 8138.)

§ 56.243. Powers of the Assessor and Collector

Unless this chapter makes some other provision, the county tax assessor and collector has the same powers and is governed by the same rules and proceedings in assessing and collecting district taxes that are provided for assessing and collecting state and county taxes. (R.S. Art. 8140, sen. 1.)

§ 56.244. Assessment of Taxes

(a) On order of the commissioners court, the assessor and collector shall assess all property in the district and list the assessed property in the books provided by the commissioners court and shall return the books at the time he returns the state and county tax rolls for correction and approval.

(b) The commissioners court shall provide necessary additional books for the assessor and collector and the county clerk to use for recording assessments and listing all property in the district and shall charge the cost of the books to the district.

(c) If the commissioners court finds the district tax rolls to be correct, it shall approve the rolls and direct the county clerk to issue a warrant to the assessor and collector, payable from district funds. The commissioners court shall pay the assessor and collector an amount they consider proper.

(d) If the assessor and collector fails or refuses to comply with the order to assess district property, the commissioners court shall suspend him from the further discharge of his duties, and he shall be removed from office in the manner provided for removing county officers. (R.S. Art. 8142.)

§ 56.245. Collection of Taxes

(a) The commissioners court may fix the time and determine the date taxes become due, but if the date and time are not designated, the taxes shall become due at the same time as state and county taxes.

(b) Taxes authorized by this chapter are a lien on the property for which they are assessed. Any person who fails to pay the taxes when due is subject to the penalty for failure to pay state and county taxes at maturity. (R.S. Art. 8141.)

§ 56.246. Delinquent Taxes

(a) The assessor and collector shall make a certified list of all property on which tax has not been paid and deliver the list to the commissioners court.

(b) The commissioners court shall collect the tax by selling the property to collect state and county taxes, and the board may purchase any of this property for the benefit of the district. (R.S. Art. 8144.)

§ 56.247. Levying Taxes on the Benefit Basis

A district operating under Article XVI, Section 59, of the Texas Constitution, may levy taxes on the benefit basis, which means the levy of a tax on an equal or uniform basis or rate on each acre of land in the district. (42nd Legis., Ch. 311, Sec. 1.)

§ 56.248. Authorizing Taxation on the Benefit Basis for Newly Created Districts

(a) In a petition to create a district under Article XVI, Section 59, of the Texas Constitution, the petitioner may request that taxes in the proposed district be levied on the benefit basis, and the notice of hearing on the petition shall state this request in addition to other information required by Section 56.017 of this code.

(b) At the hearing on the petition, the commissioners court shall consider whether or not it will be fair and equitable to levy taxes on the benefit basis, and any person who would be affected by creation of the district may appear before the commissioners court and support or oppose the levy of taxes on the benefit basis.

(c) If the commissioners court finds that creation of and drainage of the district is feasible and practicable under Section 56.019 of this code, the commissioners court shall further determine whether or not the levy of taxes on the benefit basis would be fair and equitable to the landowners in the district.

(d) If the commissioners court determines that levying taxes on a benefit basis would not be fair and equitable to the landowners, the order of the commissioners court shall state these findings, and if the district is created, district taxes shall be levied on an ad valorem basis.

(e) If the commissioners court favors creation of the district and determines that levying taxes on the benefit basis will be fair and equitable to the landowners, the order of the commissioners court shall include these findings and an election shall be called to create the district and levy taxes on the benefit basis.

(f) Findings of the commissioners court relating to the basis on which taxes will be levied are final and conclusive on all parties. (42nd Legis., Ch. 311, Sec. 2, sen. 1, 2, (part), 3.)

§ 56.249. Authorizing Taxation on the Benefit Basis for Existing District

(a) A district operating under Article XVI, Section 59, of the Texas Constitution, may levy taxes on the benefit basis as provided in this section.

(b) Any person may present to the commissioners court a petition, signed by 75 of the resident freehold taxpayers of the district whose land would be affected or by one-third of the freehold resident taxpayers of the district whose land would be affected if there are less than 75 in the district, requesting that taxes of the district be levied on the benefit basis and showing that the levy of taxes on the benefit basis will be fair and equitable to all landowners in the district.

(c) At the same meeting at which the petition is presented, the commissioners court shall schedule a hearing on the petition for either a regular meeting or a special meeting called for that purpose to be held during the period beginning on the 30th day and ending with the 60th day after the day the petition is presented.

(d) The commissioners court shall order the clerk to give notice of the time and place of the hearing by posting a copy of the petition and the order of the commissioners court at five public places in the county during the 20-day period immediately preceding the day of the hearing. The clerk shall post one of the copies at the courthouse door and the other four copies at four places within the boundaries of the district, and the district shall pay the clerk \$1 for each notice he posts and five cents a mile for each mile traveled in posting the notices.

(e) At the hearing, any person whose land would be affected may appear before the commissioners court and may support or oppose the levy of taxes on the benefit basis and may offer testimony to show whether or not the levy of taxes on the benefit basis will be fair and equitable to landowners in the district. The commissioners court has exclusive jurisdiction to hear and determine this issue and matters relating to it and has exclusive jurisdiction in all subsequent proceedings. The commissioners court may adjourn the hearing from day to day, and judgments of the commissioners court are final.

(f) If the commissioners court finds that levying taxes on the benefit basis will not be fair and equitable to landowners in the district, an order shall be entered dismissing the petition, and the district shall continue to levy taxes on an ad valorem basis, but if the commissioners court finds that levying taxes on the benefit basis will be fair and equitable to landowners in the district, the commissioners court shall order an election to be held in the district.

(g) An election to approve the levy of taxes on the benefit basis must be held during the period beginning on the 30th day and ending with the 60th day after the date of the election order. Notice of the election shall be given in the same manner as notice is given for the hearing on the petition. The commissioners court shall name polling places within the district and shall appoint judges and other necessary election officers. The ballots shall be printed to provide for voting for or against the following proposition: "The levy of taxes in the district on the benefit basis."

(h) At least two-thirds of those persons voting in the election must vote in favor of the proposition for it to carry.

(i) If the proposition carries at the election, the order of the commissioners court canvassing the election shall provide that taxes of the district are to be levied on the benefit basis, but if the proposition fails to carry at the election, the order of the commissioners court canvassing the election shall provide that taxes of the district are to continue to be levied on an ad valorem basis. (42nd Legis., Ch. 311, Sec. 3, sen. 1, 2, 3, 4, 5, 6, 7, 8 (part), 10, 12.)

§ 56.250. Law Governing Districts Levying Taxes on the Benefit Basis

Any district which levies its taxes on the benefit basis is governed by the provisions of this chapter except the district need not have a board of equalization to equalize taxes in the district. (42nd Legis., Ch. 311, Sec. 4, sen. 1 (part).)

§ 56.251. Determining Acreage in the District

(a) In districts levying taxes on the benefit basis, the commissioners court shall appoint three freehold taxpaying voters in the county as a board to determine the number of acres of land owned by each landowner in the district. The persons appointed by the commissioners court shall qualify by taking an oath to fairly and impartially hold hearings and determine acreage.

(b) The board to determine acreage shall give notice of the time and place of the hearing on the acreage before the 10-day period immediately preceding the day of the hearing.

(c) At the hearing each landowner may testify about the amount of land owned by him in the district. The board has final jurisdiction to determine the exact acreage of each landowner in the district.

(d) After the board makes its determination, the land in the district shall be annually placed on the tax rolls according to the acreage determined without rendition of taxes. (42nd Legis., Ch. 311, Sec. 4, sen. 1 (part).)

[Sections 56.252–56.290 reserved for expansion]

SUBCHAPTER H. DISSOLUTION

Section 56.291. Authority to Dissolve a District

Subject to the provisions of Sections 50.251–50.256 of this code, a district created under this chapter may be dissolved as provided in this subchapter. (R.S. Art. 8177, sen. 1.)

§ 56.292. Petition

At a regular meeting of the commissioners court, any person may present a petition signed by at least 50 of the resident freehold taxpayers of the district, or if there are less than 100 resident freehold taxpayers in the district, then by one-third of them requesting the dissolution of the district, and the commissioners court shall order an election to be held in the district at the earliest legal time to determine whether or not the district should be dissolved. (R.S. Art. 8178.)

§ 56.293. Deposit

(a) Any person filing a petition shall deposit with the county clerk \$200 in cash which shall be held by the county clerk until the result of the election to dissolve the district is officially announced and entered in the record of the commissioners court.

(b) If the result of the election favors dissolving the district, the county clerk shall return the deposit to the petitioners or their agent or attorney, and the cost and expenses of holding the election shall be charged to the district and collected as other debts in this subchapter, but if the result of the election is against dissolving the district, the county clerk shall pay the cost and expenses of the election from the deposit with vouchers signed by the county judge and return the balance of the deposit to the petitioners or their agent or attorney. (R.S. Art. 8179.)

§ 56.294. Election

(a) Notice of the election to dissolve the district shall be posted and the election shall be held as provided by this chapter for elections to create a district.

(b) The ballots for the election shall be printed to provide for voting for or against the following proposition: "Dissolution of the drainage district."

(c) For the proposition to carry, two-thirds of those persons voting at the election must vote to dissolve the district. (R.S. Art. 8180.)

§ 56.295. Result of the Election

(a) The returns of the election shall be made and the votes canvassed as provided in this chapter.

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(b) If the proposition carries, the commissioners court shall declare the result and enter it in its minutes substantially as follows:

“_____ and _____ others having petitioned for the dissolution of _____ County Drainage District No. _____; an election having been held in the district on _____; and a two-thirds majority of the votes cast in the election having favored dissolution of the district; now, therefore, the commissioners court declares that _____ Drainage District No. _____ is dissolved.” (R.S. Art. 8181.)

(c) If the proposition fails to carry, another election for the same purpose may not be held for at least two years after the results of the election are declared. (R.S. Art. 8177, sen. 2.)

§ 56.296. Settlement of Debts

(a) When the district is dissolved, the commissioners court shall provide for settlement of debts of the district, including costs and expenses of holding the dissolution election, and may levy and collect a tax on property in the district in the amount necessary to pay all valid debts and obligations of the district except district bonds.

(b) Unless district bonds are retired as provided in Section 56.299 of this code, the bonds shall be paid according to their terms by levy and collection of an annual tax. (R.S. Art. 8182.)

§ 56.297. Dissolution Tax

(a) The commissioners court shall determine the amount of debt owed by the district and shall apportion the amount of the debt among the property taxpayers of the district, and a tax shall be levied on each piece of property in the district to pay for its proportionate share of the debt. Each taxpayer may pay his tax annually or in one payment, and the amount of debt apportioned to each tract of land is a lien on that piece of land for the payment of the debt.

(b) Payment of taxes under this section may be made either in money or by surrender of bonds or other evidences of debt of the district. Any holder or owner of debt owed by the district may surrender his bonds and coupons or approved accounts to the district tax collector to pay for taxes owed on property in the district which is owned by the holder or owner of the debt, and when surrendered, the bonds or evidences of debt shall be marked paid and a receipt issued for them. The holder of bonds and coupons may only surrender coupons that are matured at the time of their surrender, and unmatured bonds are eligible only to pay unmatured tax liability in advance and only for the year in which the bonds mature.

(c) After taxes are paid as provided in this section, the taxpayer and his property are released from further liability for debts of the district, and the district tax collector shall issue a release and a receipt for the taxes which shall be filed with the clerk of the county court in the county in which the property is located in the manner provided by law for filing documents relating to real estate. (43rd Legis., Ch. 159, Sec. 2, 3.)

§ 56.298. Compensation of Officers

(a) The county assessor and collector is entitled to receive for assessing and collecting taxes the same compensation that is paid for assessing and collecting other taxes under this chapter.

(b) The compensation of the commissioners court shall be provided in its order levying taxes. (R.S. Art. 8192, sen. 3.)

§ 56.299. Retirement of Bonds

If there are outstanding bonds at the time the district is dissolved, the commissioners court may immediately enter into negotiations with the bondholders to retire the bonds before maturity, and if under their terms or by agreement between the commissioners court and the bondholders, the bonds can be retired at an earlier date than appears on their face and if the commissioners court considers retirement to be feasible and practicable, an agreement may be made by the commissioners court providing for paying and retiring the bonds. (R.S. Art. 8183, as amended.)

§ 56.300. Trustee

On filing and approval of a bond, the county treasurer becomes the trustee for the dissolved district. (R.S. Art. 8184, sen. 1 (part), as amended.)

§ 56.301. Trustee's Bond

The county treasurer shall execute a good and sufficient bond in a sum to be determined by the commissioners court, payable to and approved by the county judge, conditioned on the faithful performance of his duties as treasurer and trustee of the district and on paying to the parties entitled to it all money and other property which he receives as trustee and treasurer. The bond shall be recorded in the minutes of the commissioners court, and on approval shall supersede the bond given by the county treasurer as treasurer of the district. (R.S. Art. 8184, sen. 2, 3, as amended.)

§ 56.302. Trustee's Compensation

(a) The trustee is entitled to receive for his services one percent of all money received by him for the dissolved district and one percent on all money he pays out under this subchapter, but he is not entitled to receive a commission on money controlled by him when the district was dissolved or money relinquished by him at the expiration of his trusteeship.

(b) Only one compensation shall be paid to the trustee for his services as trustee and ex officio treasurer of the dissolved district. (R.S. Art. 8192, sen. 1, 2.)

§ 56.303. Powers of the Trustee

The commissioners court shall provide for disposition and sale of district property, and after giving the required bond, the trustee shall assume control from the commissioners court of the district's property, including money in the district treasury and books, notes, accounts, and choses of action.

(b)¹⁰ The trustee may sue any person in possession of property of the district or owing a debt to the district as though the district were still organized and may employ counsel to assist him in all suits and in the care and management of the business of the dissolved district. (R.S. Art. 8184, sen. 1 (part); R.S. Art. 8185.)

¹⁰ No subsec. (a) in enrolled bill

§ 56.304. Expenses of the Trustee

(a) The trustee shall charge against the trust estate all reasonable expenses incurred by him in caring for, conducting, and controlling the business of the district, in employing counsel for the district, and in conducting or defending suits, and on posting notice as required in cases of other claims, the trustee shall present the charges to the commissioners court annually at a regular meeting.

(b) On approval by the commissioners court, the expenses become a valid and subsisting claim against the district and may be retained by the trustee out of funds controlled by him as treasurer of the dissolved district.

(c) If the claim for expenses is rejected either in whole or in part, the trustee may appeal the decision as other claimants appeal decisions under this subchapter. (R.S. Art. 8191.)

§ 56.305. Presentation of Claims

(a) Within the six-month period immediately following approval of the trustee's bond, any person who has a claim against the district shall present the claim duly verified to the trustee, and if the trustee finds that the claim is correct, he shall allow the claim, and the claimant shall file the claim with the clerk of the commissioners court before the beginning of the 20-day period immediately preceding the next regular meeting of the commissioners court.

(b) The clerk shall immediately issue notice of the filing to all persons interested in the district, and the notice shall be posted in three public places and at the courthouse door before the beginning of the 20-day period immediately preceding the next regular meeting of the commissioners court. (R.S. Art. 8186.)

§ 56.306. Approval of Claim

(a) At a regular meeting, the commissioners court shall determine the validity of the claim, and if the commissioners court finds that the claim is correct, it shall approve the claim and enter an order of approval in its minutes.

(b) After the claim is approved, it is a valid and subsisting claim against the district and shall be filed with the trustee who shall pay the claim in the order it was filed from the district treasury or from funds collected as liquidation taxes. (R.S. Art. 8187, sen. 1, 2.)

§ 56.307. Appeal

If any claimant is not satisfied with the judgment of the commissioners court, he may appeal the judgment in the manner that cases are appealed from the justice court. (R.S. Art. 8189.)

§ 56.308. Rejection of Claim

(a) If the trustee finds any claim unjust either in whole or in part, he shall endorse on the claim his refusal to allow it.

(b) If the whole claim is refused, the claimant may bring suit to collect the claim against the trustee in a court of competent jurisdiction in the county, and if the claim is judged valid by the court, the judgment shall be filed with the trustee and paid in its order as other claims.

(c) If the claim is refused only in part and the claimant waives his claim to the part refused, he shall file the claim in the commissioners

court for approval, but if the claimant does not waive his claim to the part refused, he shall withdraw his claim from the trustee and may bring suit as provided in Subsection (b) of this section. (R.S. Art. 8188.)

§ 56.309. Bonds and Approved Claims

Bonds and approved claims which were outstanding debts of the district before its dissolution are valid and subsisting claims against the district without further approval under this subchapter, but they are subject to contest according to the provisions of this subchapter. (R.S. Art. 8187, sen. 3.)

§ 56.310 Contesting Claim

(a) If any district taxpayer files with the trustee a protest against any claim which was allowed by the former drainage commissioners before the district was dissolved and which was unpaid at the time the district was dissolved, the trustee shall refuse to pay the claim. The protest shall be accompanied by a bond in double the amount of the claim with sufficient sureties to be approved by the trustee and payable to the trustee, conditioned on payment by the contestant of all costs of suit if the claimant establishes his claim.

(b) After the trustee rejects the claim, the claimant may bring suit against the trustee to recover the claim as in other suits of a civil nature, and the contestant and his bondsman shall be parties to the suit. The trustee shall make all defenses urged against the claim by the contestant. If the claimant recovers, judgment shall be rendered against the contestant and his bondsman for costs incurred in the suit, and the claimant shall file the judgment with the trustee who shall pay the claim as other claims are paid under this subchapter. (R.S. Art. 8190.)

§ 56.311. Final Report of Trustee

(a) When all claims against the district are paid and all costs and expenses incurred in controlling and managing the district are satisfied, the trustee shall file with the commissioners court his account for final settlement.

(b) The trustee's account shall include a complete statement of all money received and paid out, of all property controlled and disposed of by the trustee, and of all other matters relating to management of the district's affairs.

(c) On approval of the account, the commissioners court shall direct the trustee to turn over to persons entitled to it as found by the commissioners court all money and property remaining in the control of the trustee, and on compliance with this order, the trustee shall report to the commissioners court, and the commissioners court shall enter an order discharging the trustee and his bondsman and closing the trust estate. (R.S. Art. 8193.)

CHAPTER 57. LEVEE IMPROVEMENT DISTRICTS

SUBCHAPTER A. GENERAL PROVISIONS

Section 57.001. Definitions

In this chapter:

- (1) "District" means levee improvement district.
- (2) "Board" means the board of directors of a levee improvement district.
- (3) "Water development board" means the Texas Water Development Board.
- (4) "Commissioners court" means the commissioners court of the county in which the district is located or the commissioners court of the county of jurisdiction. (New.)

[Sections 57.002–57.010 reserved for expansion]

SUBCHAPTER B. CREATION OF DISTRICT

Section 57.011. Creation

A levee improvement district may be created in the manner prescribed by this chapter under Article XVI, Section 59, of the Texas Constitution. (R.S. Art. 7972 (part).)

§ 57.012. Petition

(a) Before a district is created, a petition must be presented to the commissioners court or to the county judge of the county if the commissioners court is not in session.

(b) The petition, signed by the owners of a majority of the acreage of the proposed district, shall:

- (1) describe the proposed boundaries of the district;
- (2) state the general nature of the proposed improvements and their necessity and feasibility;
- (3) state whether the taxes proposed to be levied in the district are to be levied on the ad valorem basis or on the benefit basis; and
- (4) designate a name for the district which shall include the name of the county in which the district is located.

(c) If the proposed district is composed of land in two or more counties, the petition must designate one of the counties in which any part of the district is to be located as the county of jurisdiction, and this county has jurisdiction over all matters concerning the district. (R.S. Art. 7974, sen. 1 (part).)

§ 57.013. Deposit

(a) A petition for creation of a district shall be accompanied by a deposit of \$50, and if the district is to be composed of more than one county, the deposit shall be \$75.

(b) The deposit shall be paid to the clerk of the commissioners court, and the clerk shall use the deposit to pay all expenses incident to the hearing on the petition. The clerk shall pay the expenses with vouchers approved by the county judge.

(c) If any of the deposit is left after the expenses are paid, the clerk shall return the excess to the petitioners or their attorney. (R.S. Art. 7976.)

§ 57.014. Hearing on Petition

The commissioners court or the county judge to which the petition is presented shall fix a time and place for the hearing on the petition before the commissioners court. The hearing must be held during the period beginning with the 15th day and ending with the 30th day after the date of the order. (R.S. Art. 7974, sen. 1 (part).)

§ 57.015. Notice of Hearing

(a) The commissioners court shall order the county clerk to issue notice informing all persons concerned of the time and place of the hearing, and of their right to appear at the hearing to contend for or contest the creation of the district, and the county clerk shall deliver the notice to any adult person who is willing to post it. (R.S. Art. 7974, sen. 1 (part).)

(b) The notice shall be posted at the courthouse door and at four different places inside the proposed district. If the district is located in more than one county, the person posting the notice shall post a copy at the courthouse door in each county in which any portion of the proposed district is located and at four separate places inside the boundaries of that portion of the district located in each county. The notice shall be posted for at least 10 days before the date of the hearing.

(c) Any person who posts the notice shall make an affidavit before some officer authorized by law to administer oaths that he posted the notices. The affidavit is conclusive of the sworn facts. (R.S. Art. 7975.)

(d) The order of the commissioners court shall direct the county clerk to mail notice of the hearing to the water development board in Austin, Texas. The notice shall state that the petition has been filed and shall include a statement of the petition's general purpose and the time and the place of the hearing. (R.S. Art. 7974, sen. 2.)

§ 57.016. Investigation by Water Development Board

(a) When the water development board receives the notice provided for in Section 57.015(d), it shall examine the proposed district, and do the work required to determine the necessity, feasibility, and probable costs of reclaiming the land of the district from overflow and of draining it properly. The water development board shall also determine the costs of organizing the district and maintaining it for two years.

(b) A representative of the water development board shall attend the hearing on the petition to create the district and file a written report with the commissioners court on matters which have been investigated. The board shall furnish the commissioners court any additional information that is required. (R.S. Art. 7977.)

§ 57.017. Hearing Procedure

(a) The commissioners court has exclusive jurisdiction to determine all issues with respect to the creation of the district and all issues involved in proceedings with respect to the district after it has been created.

(b) The commissioners court may adjourn the hearing from day to day and from time to time.

(c) The commissioners court may make all incidental orders deemed proper with respect to the matters before it. (R.S. Art. 7978, sen. 2, 3, 4.)

§ 57.018. Conduct of Hearing

At the hearing, the commissioners court shall hear the petition and all issues with respect to the creation of the proposed district. Any person interested, or his attorney, may appear and contend for or contest the creation of the district and offer testimony pertinent to any issue presented. (R.S. Art. 7978, sen. 1.)

§ 57.019. Findings and Judgment

(a) Before the commissioners court determines that the district should be created, it must find:

(1) that the petition is signed by the owners of a majority of the acreage in the proposed district;

(2) that notice of the hearing was given;

(3) that the proposed improvements are desirable, feasible, and practicable; and

(4) that the proposed improvements would be a public utility and a public benefit and would be conducive to public health.

(b) If the commissioners court determines that the district should be created, it shall render a judgment which recites its findings and establishes the district.

(c) The commissioners court shall include its findings and judgment in an order which shall be recorded in the minutes of the commissioners court. The order shall define the boundaries of the district, but it does not have to include all of the land described in the petition if at the hearing a modification or change in the district is found to be necessary. (R.S. Art. 7979, sen. 1.)

§ 57.020. Appeal of Dismissal of Petition

If at the hearing on the petition the commissioners court enters an order dismissing the petition, the petitioners or any one of them or any taxpayer in the district may appeal the order to the district court of the county. (R.S. Art. 7979, sen. 3 (part).)

§ 57.021. Notice of Appeal

(a) Notice of the appeal shall be given by announcement at the time the order of the commissioners court is recorded or by written notice within the two-day period immediately following the entry of the order.

(b) If the notice is announced at the time the order is entered, the notice shall be entered in the minutes of the commissioners court.

(c) Written notice given under this section shall include a simple statement that the undersigned is appealing the order of the commissioners court and shall be filed with the county clerk. (R.S. Art. 7979, sen. 3 (part).)

§ 57.022. Appeal Bond

Within five days from the date the order is recorded, the appellant must file an appeal bond with two or more good and sufficient sureties,

payable to the county judge, approved by the county clerk, and conditioned upon the due prosecution of the appeal and payment of all costs incident to the appeal. No extension of time will be granted for filing the appeal bond. (R.S. Art. 7979, sen. 3 (part).)

§ 57.023. Time for Appeal

Unless the appeal is perfected according to Sections 57.021–57.022 of this code within five days after the order is rendered, the order shall be final and conclusive. (R.S. Art. 7979, sen. 3 (part).)

§ 57.024. Transfer of Records and Orders

Within five days after the appeal bond is filed, the county clerk must transfer to the clerk of the district court all the records filed with the commissioners court which relate to the establishment of the district and a transcript of the orders of the commissioners court. No additional pleadings are required. (R.S. Art. 7979, sen. 3 (part).)

§ 57.025. Trial of Appeal and Judgment

(a) The district court shall set the appeal for a hearing and shall give it precedence over all other cases. The appeal shall be tried de novo.

(b) The judgment of the district court shall be final and conclusive, and the decision shall be certified to the commissioners court for its further action. (R.S. Art. 7979, sen. 4, 5.)

§ 57.026. Authorizing Districts to Operate under this Chapter

(a) Districts that are organized under the laws of this state for the purpose of reclaiming lands through a system of levees and drainage and that are not governed by the provisions of laws of this state are entitled to and may exercise all the rights, powers, and privileges conferred by this chapter on districts created under it. They are also entitled to exercise all of the enlarged powers which may be conferred under Article XVI, Section 59, of the Texas Constitution.

(b) Before a district may operate under the provisions of this chapter, the owners of a majority of the acreage of the district must present to the commissioners court of the county in which the district is located a petition requesting that a hearing be ordered to determine whether or not the district may avail itself of the provisions of this chapter.

(c) The commissioners court shall fix a time and place for the hearing, and give notice according to the provisions of Section 57.015 of this code.

(d) At the hearing the commissioners court shall hear evidence for and against the issue presented by the petition. If it finds that the interests of the district would be promoted by granting the petition, it shall enter a judgment in the record, declaring that:

(1) it is in the interest of the district to avail itself of all rights, powers, and privileges conferred by this chapter on districts created under it;

(2) the district on behalf of which the petition is filed is entitled to and may exercise all rights, powers, and privileges conferred by this chapter on districts created by it; and

(3) the district may exercise all the rights, powers, and privileges as if it were created under this chapter, and shall proceed as if it were created under this chapter.

(e) The decree of the commissioners court shall not in any way injuriously affect any financial liability of the district. (R.S. Art. 8037.)

[Sections 57.027–57.050 reserved for expansion]

SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

Section 57.051. Appointment of Board of Directors

The commissioners court which creates a levee improvement district under this chapter, by majority vote, shall appoint three directors for the district. (R.S. Art. 7987, sen. 1 (part), as amended.)

§ 57.052. Organization of Board

After the members of the board have qualified, the board shall organize by electing one of its members chairman and one member as vice chairman. The board shall elect a secretary, who need not be a member of the board, and shall certify its organization and the name of the engineer to the court of jurisdiction. (R.S. Art. 7989 (part).)

§ 57.053. Term of Office, Removal, and Succession

(a) Each director shall hold office for a period of two years and until his successor is appointed and has qualified.

(b) A vacancy on the board shall be filled by majority vote of the court of jurisdiction, and the court shall appoint directors so that the board will always have full membership.

(c) The court of jurisdiction, by majority vote, may remove a member of the board. (R.S. Art. 7987, sen. 2 (part), as amended.)

§ 57.054. Director's Bond

(a) Before beginning to perform his duties, each director must execute a bond for \$1,000 with good and sufficient security, approved by the county judge, payable to the district, conditioned that the director will faithfully perform his duties and will render true accounts of his expenses and services.

(b) The commissioners court which has jurisdiction may fix the bond for a larger amount if, in its judgment, the interest of the district requires it.

(c) The bonds shall be filed with the clerk of the commissioners court having jurisdiction, and the clerk shall enter the bonds in the records in his office and retain the bonds in the file. (R.S. Art. 7988 (part).)

§ 57.055. Director's Oath

Before beginning to perform his duties, each director shall take and subscribe before some officer authorized to administer oaths an oath to discharge faithfully and impartially his duties as director and to render true accounts of his services and expenses. (R.S. Art. 7988 (part).)

§ 57.056. Compensation

Each director is entitled to receive for his services not more than \$25 a day and all his expenses for the time he is actually engaged in work of the district. The commissioners court shall determine the amount of per diem to which a director is entitled, and the expenses will be paid on rendition of a sworn account approved by the county judge of the county which has jurisdiction. (R.S. Art. 7987, sen. 2 (part), as amended.)

§ 57.057. Election of Board of Directors

After creation of a district with boundaries which are the same as the boundaries of the county in which it is located, an election may be held to determine whether or not directors for the district will be elected rather than appointed. (R.S. Art. 7987—1 (part), as amended.)

§ 57.058. Number of Elected Directors

In districts which have elected boards, there shall be five directors on the board. One director shall be elected by the electors of the entire district and one director elected from each county commissioners precinct by the electors of that precinct. (R.S. Art. 7987—1 (part), as amended.)

§ 57.059. Qualifications for Elected Directors

To be qualified for election as a director, a person must be a qualified property taxpaying elector of the precinct and county from which he is elected and be eligible under the constitution and laws of this state to hold the office to which he is elected. (R.S. Art. 7987—1 (part), as amended.)

§ 57.060. Petition

Before an election is held under Section 57.057 of this code, a petition, signed by at least 25 electors in each county commissioners precinct who are qualified to vote at an election for directors, shall be presented to the county judge requesting that an election be held in the district to determine whether or not directors for the district should be elected and, if so, to elect directors to serve until the next regular election for state and county officers. The petition shall include the name of one or more nominees for each director's position. (R.S. Art. 7987—1 (part), as amended.)

§ 57.061. Procedure for Election

(a) After the petition is presented under Section 57.060 of this code, the county judge shall order an election to determine the propositions presented in the petition. The election shall be held not less than 30 days from the date of the order calling the election, or the propositions may be determined at a general election. (R.S. Art. 7987—1 (part), as amended.)

(b) The election order shall designate the polling places which shall be the same as the polling places used in the last general election in the county. If there have been any changes in the polling places since the last general election, the election order shall designate the places as they were changed. (R.S. Art. 7987—1 (part), as amended.)

(c) The county clerk shall issue notice of the election and shall have the notice published in a newspaper of general circulation in the county once a week for two consecutive weeks. The first publication must be not

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less than 14 days before the day of the election. (R.S. Art. 7987—1 (part), as amended.)

(d) The sheriff shall post a copy of the notice at least 20 days before the day of the election at each polling place designated in the election order. (R.S. Art. 7987—1 (part), as amended.)

(e) The county shall pay all expenses incident to calling and holding the election. (R.S. Art. 7987—1 (part), as amended.)

§ 57.062. Terms; Vacancies

(a) The initial directors elected under Section 57.061 of this code shall serve until the next general election for state and county officers, and subsequent directors shall be elected for two-year terms and shall be elected at each general election.

(b) Vacancies in the office of director shall be filled by the remaining directors. (R.S. Art. 7987—1 (part), as amended.)

§ 57.063. Compensation

Each elected director is entitled to receive as compensation for his services \$20 for each official meeting which he attends, but he is not entitled to receive more than \$40 in any one month. (R.S. Art. 7987—1 (part), as amended.)

§ 57.064. District Treasurer

The county treasurer of the county whose commissioners court has jurisdiction of the district shall serve as treasurer of the district. (R.S. Art. 8019, sen. 1 (part).)

§ 57.065. Treasurer's Bond

(a) The treasurer shall execute a good and sufficient bond, approved by the board, payable to the district, in an amount equal to one and one-fourth of the taxes that are estimated will be collected in any one year, or any further amount the board may require.

(b) The treasurer's bond is conditioned on the faithful performance of his duties as treasurer of the district.

(c) The bond may be made by any guaranty or surety company approved by the board, and the premiums may be paid out of the district's maintenance fund. (R.S. Art. 8019, sen. 1 (part), 2.)

§ 57.066. Treasurer's Compensation

The treasurer is entitled to receive as compensation for his services not more than one-fourth of one percent of all money received by him for the district. (R.S. Art. 8019, sen. 3.)

§ 57.067. Engineer and Other Employees

The board shall employ an engineer and other employees or assistants needed to successfully carry on and complete the work and business of the district. (R.S. Art. 7989 (part).)

§ 57.068. Compensation of Other Officers

(a) A person who performs a service for the district under this chapter is entitled to receive the same compensation as he would receive for

similar services rendered as an officer of the county, unless his compensation is expressly provided for in this chapter.

(b) A clerk recording an order under this chapter is entitled to receive the same compensation as a county clerk for recording deeds. A person who posts notice under this chapter is entitled to receive the same compensation as a sheriff would receive for posting notices required by law to be posted by him. (R.S. Art. 8022.)

§ 57.069. Court Actions

The district may sue and be sued in its own name in all state courts. State courts shall take judicial notice of the existence of the district. (R.S. Art. 8026 (part).)

§ 57.070. District Seal

Districts created under this chapter shall have a common seal, which shall be circular with the name of the district and a five-pointed star in the center. (R.S. Art. 8026 (part).)

[Sections 57.071–57.090 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES

Section 57.091. Purposes of District

A district may be created for the following purposes:

- (1) to construct and maintain levees and other improvements on, along, and contiguous to rivers, creeks, and streams;
- (2) to reclaim lands from overflow from these streams;
- (3) to control and distribute the waters of rivers and streams by straightening and otherwise improving them; and
- (4) to provide for the proper drainage and other improvement of the reclaimed land. (R.S. Art. 7972 (part).)

§ 57.092. General Powers of District

(a) The district may enter into all necessary and proper contracts and employ all persons and means necessary to build, construct, complete, carry out, maintain, protect, and in case of necessity, add to and rebuild all works and improvements within the district necessary or proper to fully accomplish a reclamation plan lawfully adopted for the district.

(b) The powers granted in this section are subject to the supervision and direction of the water development board or other authority created by law. (R.S. Art. 7980 (part).)

§ 57.093. Approval of Plans by Water Development Board

(a) Before a district constructs or maintains any levees or other improvements, the water development board must approve the plans for the levees or other improvements.

(b) If a district undertakes construction or maintenance of a levee or other improvement without first obtaining approval of the plans by the

water development board, the attorney general, on the request of the water development board, shall file suit in one of the district courts in Travis County, Texas, to enjoin the construction or maintenance of the levee or other improvement. (R.S. Art. 8027.)

§ 57.094. Protesting Decision of Water Development Board

(a) If the board or any interested person is dissatisfied with the action of the water development board in finally approving or disapproving any plan of reclamation for the district, the board or the person may, within 15 days after the final action, file suit against the water development board in the district court of the county in which the court of jurisdiction is located. The district shall be made a party defendant if the suit is on behalf of any other complaining person.

(b) The petition shall include the cause or causes of objection to the water development board's action and shall show what interests of the petitioner are injuriously affected by the action.

(c) Process shall issue as in other cases, and the case shall have preference of trial in the court in which it is filed.

(d) Upon final hearing, the court shall render its judgment and decree approving or disapproving the plan of reclamation, in whole or in part, in the manner that it may find to be equitable and just. The judgment stands for the action of the water development board in such matters.

(e) An appeal may be taken, as in ordinary cases, from the judgment of the trial court, and the appeal shall have preference of hearing in the court of civil appeals. The judgment of the court of civil appeals is final and shall stand for the action of the water development board with respect to the matters at issue in the suit. (R.S. Art. 8034.)

§ 57.095. Authority to Go on Land

(a) The board, the engineer, the employees of the district, and representatives of the water development board are authorized to enter any land or go on any water for the purpose of examining the land with reference to the location of levees, drainage ditches, and all other kinds of improvements to be constructed for the district and for any other lawful purpose connected with their plan of reclamation, and may take any necessary teams, help, and instruments on the land or water.

(b) Any person who wilfully prevents or hinders any district officer from entering the land or going on the water for the purposes authorized by Subsection (a) of this section shall be fined not more than \$25 for each day he prevents or hinders the officer from entering the land or going on the water. (R.S. Art. 7983; P.C. Art. 850.)

§ 57.096. Acquiring Rights-of-Way

The board may acquire by gift or condemnation any rights-of-way necessary to construct and maintain the levees and other necessary improvements authorized by this chapter and any levee or other improvements already constructed. (R.S. Art. 7982.)

§ 57.097. Rights-of-Way across Roads

Districts have the right-of-way across all public or county roads, and shall restore roads which are crossed as near to their previous condition of use as possible. (R.S. Art. 7985.)

§ 57.098. Power of Eminent Domain

The district may exercise the power of eminent domain to acquire the fee simple title, easement or right-of-way to, over, and through private and public land, water, or land under water, within, bordering upon, adjacent to, or opposite to the district necessary for making, constructing, and maintaining levees and other improvements to prevent the overflow of rivers, creeks, or streams inside or bordering on the district. (R.S. Art. 7981, sen. 1.)

§ 57.099. Eminent Domain Procedure

(a) The district may acquire property by condemnation for the purposes stated in Section 57.098 of this code if for any reason the board of appraisers has not condemned it under the provisions of Section 57.271 of this code.

(b) Eminent domain proceedings are brought in the name of the district.

(c) Adequate compensation must be paid to the owners of any property taken, damaged, or destroyed for the purposes stated in Section 57.098 of this code.

(d) A district created under this chapter may elect to take advantage of the condemnation procedure provided in Subchapter F of Chapter 51 of this code. (R.S. Art. 7981, sen. 2, 3; 39th Legis., G.L., Ch. 25, Sec. 126, sen. 100, as amended.)

§ 57.100. Construction of Levees

(a) The district may construct the necessary levees, bridges, and other improvements across or under

- (1) railroad embankments, tracks, or rights-of-way;
- (2) public or private roads or the rights-of-way for the roads; or
- (3) levees, other public improvements, and rights-of-way of other districts.

(b) A district may join its improvements to improvements in another district. (R.S. Art. 7984 (part).)

§ 57.101. Construction of Levees by Railroad Companies and Other Authorities

(a) Before the district may construct a levee, bridge, or other improvement across or under any railroad improvement or right-of-way, any road, or any improvement of another district, the board must notify the proper railroad authorities, or other authorities of the additions or changes to result from the improvements planned by the district.

(b) The railroad authorities, or other authorities shall have 30 days from the day they receive the notice to agree or not to agree to do the work at their own expense to construct the improvements in their own manner.

(c) If a railroad or other authority undertakes to construct an improvement for the district, the design or manner of construction must be satisfactory to the district and must be approved by the water development board. (R.S. Art. 7984 (part).)

§ 57.102. Unlawfully Constructing Levees

(a) A person, corporation, or district may not construct or maintain a levee or other improvement on, along, or near any stream of this state which is subject to floods, freshets, or overflows to control, regulate, or otherwise change the floodwaters of the stream without first obtaining the approval of the plans for the structure from the water development board.

(b) A person who violates the provisions of Subsection (a) of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$100 nor more than \$1,000 or by confinement in the county jail for not more than one year or by both. A separate offense is committed each day a structure constructed in violation of this section is maintained.

(c) The provisions of this section do not apply to dams, canals, or other improvements made by individuals or corporations for the purpose of irrigation or water improvement. (P.C. Art. 1363.)

§ 57.103. Injuring Levees

A person who wrongfully or purposely cuts, injures, destroys, or in any manner impairs the usefulness of a levee or other reclamation improvement, is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$100 nor more than \$1,000 or by confinement in the county jail for not more than one year or by both. (R.S. Art. 8035.)

§ 57.104. Duty to Construct Approved Improvements

The district shall construct all improvements included in the plan of reclamation approved by the water development board. (R.S. Art. 8023, sen. 1.)

§ 57.105. Notice of Bids

Before the board may award a construction contract, it must publish notice of the intention to award the contract once a week for three consecutive weeks in one or more newspapers with general circulation in the state. A contract may be awarded without publishing notice if the contract is approved jointly by the board and the owners of a majority of the acreage in the district. (R.S. Art. 8023, sen. 2 (part).)

§ 57.106. Award of District Contract

The board shall award contracts to construct levees and other improvements necessary to the district to the lowest and best bidder, and shall execute a written contract which shall be in duplicate and signed by the contractor. (R.S. Art. 8023, sen. 2 (part).)

§ 57.107. Interest in a District Contract

If the county judge, a county commissioner, a district director, or the district engineer becomes directly or indirectly interested in a contract for work to be done by the district so that he receives any money consideration or other thing of value other than the compensation provided in this chapter, he shall be confined in the county jail for not less than six months nor more than one year. (P.C. Art. 375.)

§ 57.108. Conditions of Contract

(a) In order to complete the construction of planned improvements for the amount of money or bonds available for that purpose, the contract shall include all improvements proposed and authorized by the approved plan of reclamation.

(b) Contracts may be awarded in sections, but in order to insure that the total cost of the work is within the amount of funds available, no contract for a part of the work is valid unless and until all sections of the work have been awarded under the provisions of Sections 57.104–57.106 of this code. (R.S. Art. 8023, sen. 2 (part).)

§ 57.109. Contractor's Bond

The contractor shall execute a corporate surety bond for the full amount of the contract price to guarantee the completion of the contract. The bond must be approved by the county judge. (R.S. Art. 8023, sen. 4.)

§ 57.110. Funds Required Before Contract Awarded

(a) Before the board may award a contract to construct any part of the improvements proposed and authorized by the plan of reclamation, there must be sufficient funds available for the purpose of completing improvements. If a contract is made before sufficient funds are available to complete the improvements, the contract is void and unenforceable in any state court.

(b) A district taxpayer may bring suit to enjoin the performance of or payment of money on a contract made before sufficient funds are available for the completion of the planned improvements.

(c) In case of an urgent necessity or present calamity which makes it necessary to act at once to repair a levee in order to preserve the property in the district, the board may award a contract without sufficient funds being available to complete the improvement. (R.S. Art. 8023, sen. 3 (part).)

§ 57.111. Conditioning Contract on Sale of Bonds

After the approval and registration of bonds by the proper state officials as provided in this chapter, the board may award contracts conditioned on the sale of bonds in an amount equal to the contract price. (R.S. Art. 8023, sen. 3 (part).)

§ 57.112. Contract Payments

(a) The district shall immediately notify the county treasurer that a contract has been executed.

(b) The county treasurer shall set aside an amount of money in the construction and maintenance fund of the district known as "Special Fund Under Contract, dated _____" (inserting date of contract). This special fund shall be for the full amount of the contract price.

(c) The county treasurer shall pay warrants against the special fund only on accounts sworn to by the contractor and duly audited and approved by the board.

(d) Use or payment of any part of this special fund for any purpose other than the purpose for which it was designated is a diversion of the fund, punishable as provided in Article 94, Texas Penal Code. (R.S. Art. 8023, sen. 2 (part).)

§ 57.113. Payment of Contract with Bonds

The board, with the written consent of the county judge, may pay the contractor for improvements constructed in conformity with the contract with bonds of the district, and the bonds may be delivered in installments based on estimates of the engineer as the work progresses. (R.S. Art. 8023, sen. 2 (part).)

§ 57.114. Payment for Work Done

(a) The board shall inspect the progress of work under the contract, and on completion of any improvement in accordance with the contract, the board shall draw a warrant on the treasurer for the unpaid amount of the contract.

(b) If the board pays for work as it is completed, it may not pay more than 85 percent of the contract price for that part of the work that is completed.

(c) The amount of work completed shall be shown by estimates of the engineer. (R.S. Art. 8025.)

§ 57.115. Duty to Supervise

The board and the engineer shall supervise all work included in the contract to assure that the work is done in accordance with the specifications. (R.S. Art. 8024, sen. 1.)

§ 57.116. Engineer's Report

(a) As the work on the plan of reclamation progresses, the engineer shall make a report to the board, showing in detail whether or not the contract is being fulfilled.

(b) When the work is completed, the engineer shall make a detailed report to the board, showing whether or not the contract has been completely fulfilled, and if not, in what particular it has not been fulfilled. (R.S. Art. 8024, sen. 2.)

§ 57.117. Inspection and Report by Water Development Board

(a) The water development board shall inspect the construction of a levee or other improvement once every 60 days after the construction work has commenced, and if it finds that the work has been done in strict accordance with the contract, the water development board shall certify this fact, and its certificate shall give a full description of the work done up to the date of inspection.

(b) If the water development board finds that the work has not been done in strict accordance with the contract, it shall officially certify this fact, and in the certificate it shall state where the contractor has failed to comply with the approved plan of reclamation. (R.S. Art. 8024, sen. 3.)

§ 57.118. Compliance with Contract

After the board receives a report that the contractor has failed to comply with the contract, it shall demand that the contractor comply with the requirements of the approved plan of reclamation at his own expense, and no further accounts, claims, or vouchers submitted by the contractor shall be approved or paid until the contractor complies with the requirements of the water development board by constructing the improvement in accordance with the plan of reclamation. (R.S. Art. 8024, sen. 4.)

§ 57.119. Interference with Work

A person who wilfully destroys or defaces any corner, line, mark, bench mark, or other object fixed or established in connection with authorized work is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$100 nor more than \$1,000 or by confinement in the county jail for not less than 30 days or by both. (R.S. Art. 8036.)

§ 57.120. Authority to Act Jointly

A district may act jointly with other districts, with cities and towns and other political subdivisions of the state, with other states, and with the United States in the performance of any of the powers and duties permitted by this chapter. The joint acts shall be done on terms agreed upon by the board, subject to the approval of the water development board. (R.S. Art. 7986.)

§ 57.121. Interpretation of District Powers

Except as expressly provided, specific powers authorized by this chapter may not operate as a limitation on the general powers authorized by this chapter. (R.S. Art. 7980 (part).)

[Sections 57.122–57.150 reserved for expansion]

SUBCHAPTER E. PLAN OF RECLAMATION**Section 57.151. Authority of Engineer**

The engineer, subject to the authority of the water development board, shall control the engineering work of the district. (R.S. Art. 7990, sen. 1 (part).)

§ 57.152. Permission to Make Survey

The district may apply in writing to the water development board for authority to obtain information by proper surveys on the feasibility of reclaiming lands which may be later incorporated in the district, and if the water development board is satisfied that the applicant is competent and acting in good faith, it shall issue to the applicant express written authority to make surveys to obtain the desired information. (R.S. Art. 7973 (part).)

§ 57.153. Authority to Enter Land

After the engineer receives written authority to make surveys under Section 57.152 of this code, he may enter any land proposed to be incorporated in the district to examine the land and locate boundary lines and to obtain other information to be used in the formation of the district. (R.S. Art. 7973 (part).)

§ 57.154. Survey and Report

(a) The engineer shall make a survey of the land inside the boundaries of the district, and land surrounding the district, that will be improved or reclaimed by the system of levees and drainage to be adopted and shall

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prepare for the board a written report, with maps and profiles, of the results of his survey.

(b) A duplicate of the engineer's report shall be filed with and approved by the water development board. (R.S. Art. 7990, sen. 1 (part).)

§ 57.155. Contents of Report

(a) The engineer's report shall contain a complete plan for draining land, constructing levees on land, and reclaiming land of the district from overflow or damage by waters from streams inside or adjacent to the district which may affect land in the district. The report shall also include a description of the physical characteristics of the land within the district and the location of any public roads, railroads, rights-of-way and roadways, and other improvements on the land of the district.

(b) The plan may include, and where necessary must include, the costs of straightening streams which may injure the land of the district. (R.S. Art. 7990, sen. 1 (part).)

§ 57.156. Plan of Reclamation

(a) Before the engineer's report is adopted, the water development board or the board, with the approval of the water development board, may modify the report.

(b) When the engineer's report is approved by the water development board and adopted by the board, it shall be known as "The Plan of Reclamation."

(c) An approved plan of reclamation cannot be modified or changed in any manner if the cost of the plan is over \$1,000, unless a petition, signed by the owners of a majority of the acreage in the district is presented to and approved by the water development board.

(d) A copy of the plan of reclamation and of any amendments to it shall be filed with the county clerk in each county in which any land lies which will be affected by the plan of reclamation. The filing is notice of the contents of the plan of reclamation to all persons owning or having any interest in any lands in the county in which it is filed. (R.S. Art. 7990, sen. 2, 3.)

[Sections 57.157–57.170 reserved for expansion]

SUBCHAPTER F. GENERAL FISCAL PROVISIONS

Section 57.171. May Borrow Money

A district may borrow money to accomplish the purposes stated in Section 57.092 of this code. (R.S. Art. 7980 (part).)

§ 57.172. District Depository

(a) The board shall select a depository for funds of the district, and the county treasurer shall deposit the funds of the district in the depository as the board directs.

(b) Before the depository receives any funds of the district, it shall execute a bond with a corporate surety company authorized to do business in the State of Texas payable to the district as surety. The bond must be in an amount equal to the funds deposited, and conditioned on the safe-keeping and payment of the funds. (R.S. Art. 8021.)

§ 57.173. Treasurer's Duties

(a) The county treasurer, as treasurer of the district, shall open an account for each district and keep an accurate account of all money belonging to the district, either received or paid out by him.

(b) He shall pay out money only on a voucher signed by two of the directors and countersigned by the county judge, and shall carefully preserve all orders for the payment of money.

(c) The treasurer shall render to the board or the commissioners court as often as they require it a correct account of all matters pertaining to the financial condition of the district. (R.S. Art. 8020.)

§ 57.174. Duties of Tax Assessor and Collector

The county assessor and collector is charged with the assessment rolls of the district, and he shall collect all taxes levied and assessed against property inside the district, and deliver the taxes collected to the treasurer of the district. (R.S. Art. 8015 (part).)

§ 57.175. Tax Assessor and Collector's Bond

The bond of the county assessor and collector stands as security for the proper performance of his duties as tax collector of the district, unless the board decides that an additional bond payable to the district is required. (R.S. Art. 8015 (part).)

§ 57.176. Failure of Tax Collector to Perform Duties

(a) A county assessor and collector who fails to collect the district's taxes or to give an additional required bond as provided in Sections 57.174-57.175 of this code is guilty of malfeasance in office, and the commissioners court shall suspend him from office, and may bring action to remove him from office as provided by Article V, Section 24, of the Texas Constitution.

(b) If the county tax collector is suspended, the board may appoint a special collector for the district and require him to furnish security.

(c) A person chosen as a special collector for the district has, in the district, the same rights and powers that a county assessor and collector has in his county. (R.S. Art. 8015 (part).)

§ 57.177. Financing the District Without Bonds

(a) If the district wants to carry out its plan of reclamation without issuing bonds, the board may arrange for contributions from landowners or other sources to provide the funds required to complete the improvements.

(b) The electors of the district may vote to create an indebtedness which is not evidenced by bonds.

(c) If the district creates an indebtedness under this section, the indebtedness may not be more than:

(1) the cost of construction of improvements included in the plan of reclamation;

(2) the cost as estimated by the water development board of maintaining the improvements for two years; and

(3) an additional amount equal to 10 percent to meet emergencies, modifications, and changes lawfully made, plus damages awarded against the district. (R.S. Art. 7999.)

[Sections 57.178-57.200 reserved for expansion]

SUBCHAPTER G. ISSUANCE OF BONDS

Section 57.201. Power to Issue Bonds

The district may issue bonds, but it may not issue bonds nor incur any debt unless an election is held in the district and the proposition is approved by a majority vote of the electors of the district who vote in the election. (R.S. Art. 7980 (part).)

§ 57.202. Petition

(a) If a district wants to issue bonds to raise funds for making improvements, a petition shall be presented to the commissioners court which has jurisdiction or to the county judge if the commissioners court is in vacation. The petition shall be signed by the owners of a majority of the acreage included in the district and shall request the issuance of bonds in the amount stated.

(b) The petition shall state the rate of interest to be borne by the bonds and shall request that an election be held in the district to determine whether or not bonds should be issued by the district for the purposes indicated in this section and for the amount stated and whether or not taxes should be levied in the district to pay for the bonds.

(c) The amount of bonds stated in the petition shall not be more than the sum of:

- (1) the cost of construction of improvements to be made according to the adopted plan of reclamation approved by the water development board;
- (2) the cost of maintenance of the improvements for two years as estimated by the water development board;
- (3) an additional 10 percent to meet emergencies, modifications, and charges lawfully made; and
- (4) all damages awarded against the district. (R.S. Art. 8000, sen. 1, 2 (part).)

§ 57.203. Election Order

On presentation of a petition for the issuance of bonds, the commissioners court, or the county judge if the commissioners court is not in session, shall order an election in the district to authorize the issuance of bonds. The commissioners court, or the county judge if the commissioners court is not in session, shall set the date for the election in its order and shall enter the election order in its minutes. The election must be held during the period beginning on the 20th day and ending with the 30th day after the date of the order. (R.S. Art. 8001, sen. 1.)

§ 57.204. Notice of Election

(a) When the commissioners court of jurisdiction or county judge orders a bond election, the clerk of the commissioners court of jurisdiction shall issue and give to the sheriff a notice stating in substance the contents of the election order and the time and place of the election. The sheriff or his deputy shall post a copy of the notice at the courthouse door and at four different places in the district.

(b) If the district is located in more than one county, the notice may be delivered to any adult person, who shall post copies of the notice at the courthouse of each county in which any portion of the district is lo-

cated, and at four separate places inside the boundaries of those portions of the district situated in each county.

(c) The notice must be posted for at least the 10-day period immediately preceding the date of the election.

(d) The sheriff or person posting the notice shall make return to the clerk of the commissioners court of jurisdiction, and a return by an individual other than the sheriff must be under oath before some person authorized by law to administer oaths.

(e) The return of the sheriff or any other person under oath is conclusive evidence of the facts stated. (R.S. Art. 8003.)

§ 57.205. Conduct of Election

(a) The district is an election precinct for the purpose of bond and other elections held under this chapter, and there shall be at least one polling place in each county in which a portion of the district is located.

(b) The commissioners court or the county judge, whichever orders the election, shall establish polling places for the election and shall appoint a judge and two clerks for each polling place and shall appoint other judges and clerks if necessary. The appointed judges and clerks shall conduct the election, and if a judge or clerk is absent or refuses to serve, the electors shall choose someone to replace him.

(c) The board shall furnish necessary ballots and other supplies for the election, and the ballots shall be printed to provide for voting for or against the following proposition: "The issuance of bonds and the levy of taxes to pay for the bonds." (R.S. Art. 8001, sen. 2, 3, 4; R.S. Art. 8004, sen. 1 (part).)

§ 57.206. Expenses of Election

(a) The petition for a bond election shall be accompanied by a \$200 deposit, which shall be used to pay the expenses of the election and other expenses that may be properly incurred before the bonds are sold and issued.

(b) Any remaining portion of the deposit shall be returned to the petitioners or their attorney; and when the bonds are issued, the expenses paid from the deposit shall be refunded to the petitioners or their attorney from the proceeds of the bonds. (R.S. Art. 8002.)

§ 57.207. Declaring Result of Election

(a) Immediately after an election under this chapter, the officials holding the election shall return the result to the commissioners court of jurisdiction.

(b) The election officials shall return the ballot boxes to the clerk of the commissioners court of jurisdiction, who shall safely keep the boxes and deliver them with the returns of the election to the commissioners court of jurisdiction at its next regular or special session.

(c) The commissioners court of jurisdiction at its first session after the election shall canvass the vote and the returns. If the proposition submitted has been approved by a majority of the electors of the district voting at the election, the commissioners court of jurisdiction shall declare the result in favor of the proposition, but if the proposition is not approved by the electors of the district, the commissioners court of jurisdiction shall declare the result to be against the proposition.

(e)¹¹ The commissioners court of jurisdiction shall enter an order declaring the election result in its minutes. (R.S. Art. 8005).

¹¹ No subsec. (d) in enrolled bill.
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§ 57.208. Issuance of Bonds

(a) If the issuance of bonds and the levy of taxes to pay for the bonds are approved by the electors of the district, the commissioners court of jurisdiction, after the election result is declared, shall order the issuance of the bonds in an amount up to the amount approved at the election, unless the board requests a smaller amount.

(b) The bonds shall be known as "Levee Improvement Bonds" and shall state on their face the purpose for which they are issued.

(c) The bonds shall be:

(1) issued in the name of the district;

(2) signed by the county judge of the county of jurisdiction; and

(3) attested by the county clerk with the seal of the commissioners court of jurisdiction affixed to the bonds.

(d) The issuing authority shall fix the denominations of the bonds and make them payable at an expedient time not more than 30 years from the date on the bonds. (R.S. Art. 8007, sen. 1, 2 (part).)

§ 57.209. Approval of Bonds by Attorney General

(a) Before the bonds are offered for sale, a certified copy of all proceedings relating to organization of the district and issuance of the bonds and other relevant information shall be sent to the attorney general.

(b) The attorney general shall carefully examine the bonds, with regard to the record and the constitution and laws of this state governing the issuance of bonds, and the attorney general shall officially certify the bonds if he finds that they conform to the record and the constitution and laws of this state and are valid and binding obligations of the district. (R.S. Art. 8009 (part).)

§ 57.210. Registering Bonds

(a) After the attorney general approves and certifies the bonds, the comptroller shall register them in a book kept for that purpose and shall record the certificate of the attorney general.

(b) After the bonds are certified by the attorney general and registered by the comptroller, they are prima facie valid in any action, suit, or proceeding, and in an action brought to enforce collection of the bonds and interest on the bonds, the only defense against the validity of the bonds is forgery or fraud. (R.S. Art. 8009 (part); R.S. Art. 8010.)

§ 57.211. Sale of Bonds

(a) After the bonds are issued, approved, and registered, the commissioners court of jurisdiction may appoint the county judge or another suitable person to sell the bonds on the best terms and for the best price possible.

(b) The board shall approve all bond sales, and no sale is complete until approved by the board.

(c) The county judge or other person selling the bonds is entitled to receive, as full compensation for his services in selling the bonds, one-fourth of one percent of the amount received.

(d) The county judge or the person appointed to sell the bonds shall deduct his commission and promptly pay the proceeds from the bond sales to the proper treasurer or depository, to the credit of the district.

(e) Before making a sale, the county judge or the person appointed to sell the bonds shall execute a good and sufficient bond approved by the

commissioners court of jurisdiction for an amount not less than the par value of the bonds to be sold, payable to the district, and conditioned on the faithful discharge of his duty. (R.S. Art. 8011.)

§ 57.212. Bond Record

(a) After the bonds are issued, the board shall deliver a well-bound book to the county treasurer of the county of jurisdiction, who shall keep in the book a record of:

- (1) all bonds which have been issued;
- (2) the number of each bond;
- (3) the amount of each bond;
- (4) the rate of interest on each bond;
- (5) the date of issuance of each bond;
- (6) the date when each bond is due;
- (7) the place where each bond is payable;
- (8) the amount received for each bond; and
- (9) the tax levy to provide a sinking fund to pay principal of and interest on the bonds.

(b) The treasurer shall keep the book open at all times for inspection by any taxpayer or bondholder, and when a person pays for a bond, the treasurer shall enter the payment in the book.

(c) The county treasurer is entitled to receive for his services in keeping a record of the bonds the same fee allowed by law to the county clerk for recording deeds. (R.S. Art. 8008.)

§ 57.213. Refunding Bonds

(a) With the consent of the bondholders, a district may refund outstanding bonds by issuing new coupon bonds in their place.

(b) Interest is shown by coupons attached to the bonds, and the commissioners court of jurisdiction shall determine whether the board will pay the interest on the bonds annually or semiannually.

(c) The board may pay the refunding bonds serially or in any other manner they choose, but, except as provided in Subsection (d) of this section, they shall pay the bonds not later than 40 years from the date the bonds are issued. (R.S. Art. 8018, sen. 1, 2, 3 (part).)

(d) A district that taxes on the benefit basis and that is located in a county with a population of over 390,000, according to the last preceding federal census, may refund outstanding bonds or matured interest coupons on bonds issued by the district with new coupon bonds payable not more than 75 years from their date. (R.S. Art. 8018a.)

(e) The district shall issue the bonds in denominations of \$100 or a multiple of \$100 and, before the bonds are delivered, shall levy a tax sufficient to pay the principal of and interest on the refunding bonds. The refunding of bonds does not affect any taxes already due.

(f) The board shall issue refunding bonds in the manner provided for other district bonds.

(g) The board shall deduct any money on hand in the sinking fund account to ascertain the amount of refunding bonds to be issued and shall apply the money to the payment of the outstanding bonds.

(h) The board may not issue refunding bonds until they are approved by the attorney general and registered by the comptroller, and the comptroller shall not register the refunding bonds until the old bonds being replaced are presented to him for cancellation. After the comptroller

registers the new bonds, he shall cancel the old bonds and interest coupons and deliver the new bonds to the proper bondholders. The old bonds may be presented for cancellation in installments, and the comptroller may register and deliver a like amount of the new bonds. (R.S. Art. 8018, sen. 3 (part), 4, 5, 6.)

§ 57.214. Issuance of Refunding Bonds without an Election

A district which is converted under Article XVI, Section 59, of the Texas Constitution, may issue refunding bonds without the approval of the electors under the provisions of Section 56.210 of this code.

§ 57.215. Investment of Sinking Fund

The board or commissioners court of jurisdiction may invest the district's sinking funds in county, municipal, district, or other bonds in which other sinking funds may by law be invested and also may invest the sinking funds in bonds of the series to which the funds apply if the bonds are offered for redemption before maturity on terms considered advantageous to the district. (R.S. Art. 8012, sen. 2, 4.)

§ 57.216. Providing for Additional Funds

(a) If the improvements in the plan of reclamation adopted for the district are insufficient to reclaim all of the land and other property inside the district, extensive repairs or additions to the improvements are necessary, or additional funds are needed to complete improvements, the board may provide additional funds for the district by following the provisions of this chapter for raising funds for the original plan of reclamation.

(b) If the board creates additional indebtedness or issues additional bonds, the indebtedness or bonds are subject to the provisions of this chapter relating to the issuance of bonds. The new or amended plan of reclamation must be approved by the water development board. (R.S. Art. 8030.)

[Sections 57.217–57.250 reserved for expansion]

SUBCHAPTER H. TAX PROVISIONS

Section 57.251. Levy of Taxes on the Ad Valorem Basis

(a) If a district levies taxes on the ad valorem basis, the commissioners court of each county in which any portion of the district is located, shall levy and have assessed and collected taxes on all taxable property in the district, based on the value of each piece of property for state and county purposes.

(b) The taxes must be sufficient to pay the interest on the bonds as it is due, and to raise a sufficient amount to create a sinking fund to redeem and discharge the bonds at maturity.

(c) The levy for each year throughout the life of the bond issue may be made at the time the bonds are issued and shall be the rate for each year until it is modified. (R.S. Art. 8012, sen. 3.)

§ 57.252. Assessment of Property in the District

The county assessor and collector shall assess all property inside the district and list it for taxation in books or rolls furnished to him by the

commissioners court. The property of the district shall be assessed at the same value as it is assessed for state and county purposes. (R.S. Art. 7998, sen. 1, 4 (part).)

§ 57.253. Duties of Assessor and Collector

In assessing taxes for the district, the assessor and collector has the same powers and is governed by the same rules, regulations, and proceedings as provided by law for the assessment and collection of county and state taxes. (R.S. Art. 7998, sen. 2.)

§ 57.254. Approval of Tax Books and Rolls

The assessor and collector shall return the district's books and rolls for correction and approval to the commissioners court at the same time that he returns the books and rolls for state and county taxes. If the commissioners court finds the books and rolls correct, it shall approve them. (R.S. Art. 7998, sen. 4 (part), 5 (part).)

§ 57.255. Compensation of Assessor and Collector

(a) When the tax books and rolls are approved by the commissioners court, the assessor and collector is entitled to receive for his services an amount specified by the commissioners court, but he may not be allowed more than he is allowed by law for the same services rendered for the state and county. (R.S. Art. 7998, sen. 6.)

(b) The commissioners court shall order the county clerk to pay the assessor and collector by issuing a warrant against the county treasurer in favor of the assessor and collector payable from the funds of the district. (R.S. Art. 7998, sen. 5 (part).)

§ 57.256. Failure of Assessor and Collector to Assess District Property

If the assessor and collector fails or refuses to comply with the orders of the commissioners court requiring him to assess and list all property in the district for taxation as provided in Section 57.252 of this code, the commissioners court shall suspend him from the further discharge of his duties, and the assessor and collector shall be removed from office in the manner provided by law for the removal of county officers. (R.S. Art. 7998, sen. 7.)

§ 57.257. Board of Equalization

The commissioners court shall be the board of equalization for the district, and all laws governing boards of equalization for county and state taxing purposes govern the board of equalization for the district. (R.S. Art. 7998, sen. 3.)

§ 57.258. Assessment and Collection of Taxes for Districts with Land in more than One County

(a) A district providing for the levy of taxes on the ad valorem basis which includes land located in more than one county has all the rights, powers, and privileges of districts that include land in one county.

(b) The assessor and collector of each county having land included in the district shall assess the taxes levied by the commissioners court of his county against the land in his county which is included in the district for each year that a tax is levied.

(c) The assessor and collector shall make a separate tax roll covering the district's taxes and shall use it as a guide in collecting the taxes for the district.

(d) The assessor and collector shall collect the taxes for the district in his county for every year that a tax has been levied. The assessor and collector shall keep a separate account covering the land in his county that is included in the district for the purpose of determining how much tax has been collected and how much of the taxes his county pays to the district. (R.S. Art. 7998, sen. 8, 9, 10, 11, 12.)

§ 57.259. Assessment of Damages

(a) In a district which levies taxes on the ad valorem basis, the commissioners of appraisement shall be appointed and shall act in the manner provided in Sections 57.261–57.270 of this code, except that persons appointed under this section may not assess benefits.

(b) Proceedings, notice, and hearings shall be governed by the provisions of this chapter relating to assessment of taxes on the benefit basis.

(c) Provisions of this chapter relating to assessment of damages in districts levying taxes on the benefit basis shall apply to assessment of taxes on the ad valorem basis. (R.S. Art. 7997.)

§ 57.260. Levy of Taxes on Benefit Basis

(a) If a district levies taxes on the benefit basis, the commissioners court of each county in which any portion of that district is located shall levy and have assessed and collected taxes on all taxable property inside the district, based on the net benefits which the commissioners of appraisement find will accrue to each piece of property from the completion of the plan of reclamation or other authorized improvement.

(b) The taxes shall be sufficient to pay the interest on the bonds, as it is due, and to raise an amount to create a sinking fund sufficient to discharge and redeem the bonds at maturity.

(c) The levy for each year throughout the life of the bond issue may be made at the time the bonds are issued and shall be the rate of levy for each year until it is modified. (R.S. Art. 8012, sen. 1.)

§ 57.261. Appointment of Commissioners of Appraisement

After the plan of reclamation is approved and adopted, the commissioners court of the county of jurisdiction in a district levying taxes on the benefit basis shall appoint three disinterested commissioners, known as "commissioners of appraisement." (R.S. Art. 7991 (part).)

§ 57.262. Qualifications for Commissioners of Appraisement

The commissioners of appraisement shall be freeholders, but not owners of land within the district for which they are to act, and shall not be related within the fourth degree of affinity or consanguinity to any of the members of the commissioners court of jurisdiction, the board, or to any landowners in the district. (R.S. Art. 7991 (part).)

§ 57.263. Compensation of Commissioners of Appraisement

(a) The commissioners of appraisement in their report shall show the number of days each has been employed and the actual expenses each has incurred during his service as commissioner.

(b) The district shall pay each commissioner of appraisement \$5 a day for his services and reimburse him for all necessary expenses when his accounts are approved by the board. (R.S. Art. 7993, sen. 3 (part).)

§ 57.264. Organization of Commissioners of Appraisement

(a) The secretary of the board shall notify each of the commissioners of appraisement in writing of his appointment and of the time and place for the first meeting. (R.S. Art. 7992, sen. 1.)

(b) The commissioners of appraisement shall meet at the time and place specified, or as soon after that time as practicable, at a time and place agreed on by them.

(c) The commissioners of appraisement shall each take and subscribe an oath to faithfully and impartially discharge their duties as commissioners, and to make a true report of the work done by them.

(d) At the first meeting the commissioners of appraisement shall organize by electing one of their number chairman and one vice chairman. The secretary of the board or in his absence, a person the board appoints, shall be secretary of the commissioners of appraisement during their continuance in office.

(e) The secretary shall furnish the commissioners of appraisement information and assist them in the performance of their duties. (R.S. Art. 7992, sen. 3.)

(f) If a commissioner of appraisement resigns, the vacancy shall be filled in the manner provided for filling vacancies on the board. (R.S. Art. 7992, sen. 2.)

§ 57.265. Duties of Commissioners of Appraisement

(a) The commissioners of appraisement shall begin to perform their duties within 30 days after qualifying and organizing.

(b) The commissioners of appraisement may at any time call on the attorney of the district for legal advice and information and, if necessary, may require the engineer or one of his assistants to assist in the proper performance of their duties.

(c) The commissioners of appraisement shall view:

- (1) the land inside the district;
- (2) other land which will be affected by the plan of reclamation if carried out;
- (3) all public roads, railroads, rights-of-way, and other property or improvements located on the land; and
- (4) land inside or outside the district which may be acquired under the provisions of this chapter for any purpose connected with or incident to carrying out the plan of reclamation.

(d) The commissioners of appraisement shall assess the amounts of benefits and all damages that will accrue to any tract of land inside the district or any land outside the district which may be affected by the plan of reclamation, or any public highway, railroad, right-of-way, road-way, or other property.

(e) The commissioners of appraisement shall assess the value of all land inside or outside the district to be acquired for right-of-way or other purposes. (R.S. Art. 7993, sen. 1, 2 (part).)

§ 57.266. Report of Commissioners of Appraisalment

(a) The commissioners of appraisalment shall prepare a report of their findings. The report shall include:

(1) the name of the owner of each piece of property examined and assessed;

(2) a description which will identify each piece of property; and

(3) the value of all property to be taken or acquired for rights-of-way or any other purposes connected with carrying out the plan of reclamation as finally approved by the water development board.

(b) At least a majority of the commissioners of appraisalment shall sign the report. They shall file the report with the secretary of the board. (R.S. Art. 7993, sen. 3 (part).)

(c) The failure of the commissioners of appraisalment to return damages to any tract of land inside or outside the district shall be considered a finding that no damage will be done to that tract. (R.S. Art. 7993, sen. 2 (part).)

(d) The commissioners of appraisalment in their report shall fix a time and place to hear objections to the findings in the report. The date for the hearing shall not be less than 20 days from the filing of the report. (R.S. Art. 7993, sen. 4.)

§ 57.267. Notice of Hearing

(a) After the commissioners of appraisalment file their report with the secretary of the board, the secretary shall publish notice of the time and place of the hearing on the report.

(b) The notice shall be published in a newspaper published in each county in which any part of the district is located, or in which any land lies that will be in any way affected by the proposed plan of reclamation. The notice shall be published once a week for two consecutive weeks before the date of the hearing.

(c) The notice shall be in substantially the following form:

To the owners and all other persons having any interest in land lying in _____ County, take notice, that a copy of the plan of reclamation of the _____ Levee Improvement District has been filed with the county clerk of this county and that the commissioners of appraisalment have been appointed to assess benefits and damages accruing to land or other property inside or outside the levee district which will be benefited, taken, damaged, or affected in some way by the carrying out of the plan of reclamation. The report of the commissioners of appraisalment has been filed in my office at _____, and all interested persons may examine the report and make an objection to all or any part of the report. A person who claims damage to his land and to whose land no damages have been assessed in the report must file a claim for damage in my office on or before _____, 19____. A person who fails to make an objection or to file a claim for damages is deemed to have waived his right to object or claim damages. The commissioners of appraisalment will meet on _____, 19____, to hear and act on objections to their report and claims for damages.

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(d) The secretary shall mail written notice to each person whose property is listed in the report of the commissioners of appraisal, if the office address is known. This notice shall state in substance:

(1) that the report of the commissioners of appraisal assessing benefits and damages accruing to land and other property because of the plan of reclamation for the district has been filed in the secretary's office;

(2) that all persons interested may examine the report and make objections to it in whole or in part; and

(3) that the commissioners of appraisal will meet on the day and at the place named to hear and act on objections to the report.

(e) The secretary, on the day of the hearing, shall file in his office the original notice, with his affidavit, which shall show the manner of publication and the names of all persons to whom notices have been mailed. The affidavit shall state that the secretary could not with reasonable diligence ascertain the post-office addresses of those affected to whom no notices were mailed.

(f) The secretary shall file copies of the notice and his affidavit with the commissioners of appraisal and with the clerk of the commissioners court of jurisdiction. (R.S. Art. 7994.)

§ 57.268. Rights of Parties

Parties interested in matters before the commissioners of appraisal may appear in person or by attorney, or both, and are entitled to process for witnesses, to be issued by the chairman of the commissioners of appraisal on demand. The commissioners of appraisal have the same power as a court of record to enforce the attendance of witnesses. (R.S. Art. 7996, sen. 2.)

§ 57.269. Hearing; Judgment

(a) An owner of land or other property affected by the report of the commissioners of appraisal or by the plan of reclamation may file an objection to any or all parts of the report of the commissioners of appraisal at or before the hearing on the report.

(b) A person on whose land no damages have been assessed and who believes that his land will be damaged by prosecution of the plan of reclamation may file with the secretary of the board a claim for damages.

(c) The commissioners of appraisal, at the time and place named in the notice, shall hear and decide all objections and claims for damages and may make changes and modifications in the report.

(d) The commissioners of appraisal may adjourn the hearing from day to day.

(e) After modifying the report to conform to the changes decided on at the hearing, the commissioners of appraisal shall make a decree confirming the report as modified.

(f) If necessary the commissioners shall condemn and adjudge damages for land inside or outside the district that is needed for right-of-way or other purposes.

(g) The commissioners shall adjudge and apportion costs incurred on the hearing in an equitable manner.

(h) The findings of the commissioners of appraisal as to benefits is final and conclusive.

(i) The secretary shall record the findings of benefits in the minutes of the board and shall file certified copies of the findings with the county clerk of each county in which any portion of the land inside the district is located, as a permanent record of the county. The filing is notice to all persons of the contents of the decree. (R.S. Art. 7995, sen. 1, 2, 3, 4, 5.)

§ 57.270. Appeal of Decree of the Commissioners of Appraisalment

(a) A person or the board may appeal from the decree of the commissioners of appraisalment assessing or refusing to assess damages or fixing the value of a right-of-way.

(b) The only questions considered on an appeal are:

(1) whether or not just compensation has been allowed for property taken;

(2) whether or not proper damages have been allowed for property injured; or

(3) whether or not in fact property has been damaged.

(c) The appeal shall be taken to the district court of the county of jurisdiction in the manner, under the conditions, and within the time provided by Sections 57.020–57.025 of this code for appeals from judgments of the commissioners court refusing to create the district.

(d) The district court has jurisdiction of the appeal regardless of the amount claimed.

(e) The secretary in not less than five days after the appeal is filed shall send to the district clerk:

(1) the plan of reclamation or a certified copy of it;

(2) a transcript of that part of the commissioners of appraisalment's report affecting the lands concerned in the appeal;

(3) a transcript of the claim for damages; and

(4) a transcript of the action of the commissioners of appraisalment on the claim.

(f) Appeals may be consolidated in the district court.

(g) The trial in the district court shall be de novo, and the proceedings shall be in accordance with the laws of this state for damage suits.

(h) The claimant is considered the plaintiff, and the district, the defendant, and no further pleadings are required.

(i) Appeals may be taken from the judgment of the district court as in other civil cases.

(j) No appeal may delay carrying out the plan of reclamation, and if the board pays to the district clerk the amount of damages awarded by the commissioners of appraisalment to a claimant who is appealing their decree, and if the board makes bond to pay to the claimant any additional amount that he may be awarded on his appeal, title to the condemned property that is the subject of the appeal vests in the district, and the district is entitled to immediate possession.

(k) No person may claim damages against the district, its board, officers, or agents because of the prosecution of the plan of reclamation if he owns or has an interest in land in a county in which a copy of the plan of reclamation has been filed and in which notice has been published of the hearing before the commissioners of appraisalment, and he has failed to file a claim for damages or an objection to the damages assessed by the commissioners of appraisalment against his land, or if he has filed

a claim or objection but has failed to appeal from an adverse ruling on his claim or objection. (R.S. Art. 7995, sen. 6, 7, 8, 9, 10, 11, 12.)

§ 57.271 Basis of Taxation

(a) After the action of the commissioners of appraisement, as provided in Sections 57.261–57.270 of this code, their final findings, judgment, and decree assessing benefits, until changed or modified, shall form the basis of taxation for the district, for all purposes for which taxes may be levied by the district.

(b) Taxes shall be apportioned and levied on each tract of land, railroad, and other real property in the district in proportion to the benefits to the property named in the decree of the commissioners of appraisement. (R.S. Art. 7996, sen. 1.)

§ 57.272. Tax Assessor for Districts Levying Taxes on Benefit Basis

(a) The secretary of the board shall serve as tax assessor for a district levying taxes on the benefit basis.

(b) When a tax is levied, the secretary shall, at the expense of the district, prepare a tax roll substantially in the same form as the assessment roll made by county assessor and collector, except the roll shall state net benefits assessed against property.

(c) The secretary shall compute the amount of taxes assessed against each piece of property and enter the amount on the tax roll and shall file with the assessor and collector of each county in which a portion of the district is located a certified copy of the part of the tax roll which relates to property in the district located in that county. (R.S. Art. 8014.)

§ 57.273. Readjusting Assessments

(a) After one year from the date of the final judgment and decree of the commissioners of appraisement the owners of a majority of the acreage in the district may file a petition with the commissioners court alleging that the previous assessment of benefits in the judgment and decree is insufficient or inequitable and requesting an increase or readjustment of the assessment of benefits for the purpose of making an adequate or more equitable basis for levying taxes.

(b) If the plan of reclamation is changed or modified, or if extensive repairs or additions to the plan of reclamation are desired, the board shall file a petition with the commissioners court describing the changes, modifications, repairs, or additions.

(c) When a petition is filed, the commissioners court shall set a day for a hearing on the petition.

(d) The commissioners court shall issue notice informing all persons concerned of the time and place of the hearing, and of their rights to appear and contend for or contest a reassessment of benefits. The notice must be posted as provided in Section 57.015 of this code for posting notice of the hearing for establishing the district. (R.S. Art. 8031.)

§ 57.274. Hearing on Petition for Reassessment

(a) At the hearing on readjustment of assessments, the commissioners court shall hear the petition and receive evidence for or against the petition.

(b) The commissioners court shall order a reassessment of benefits if it finds that the aggregate amount of assessed benefits as shown by the

previous final judgment and decree is insufficient to carry out the original plan of reclamation or changes, repairs, or additions to the plan or there has been a material change in the relative value of the benefits conferred on the property in the district, or for some reason the assessment of benefits is inadequate or inequitable.

(c) If the commissioners court orders a reassessment, it shall appoint commissioners of appraisal as provided in Section 57.263 of this code, and the new commissioners of appraisal have the same powers, rights, privileges, and duties as provided in Section 57.267 of this code. (R.S. Art. 8032.)

§ 57.275. Tax Collection on Reassessment

(a) The judgment and decree of the commissioners of appraisal reassessing benefits in the district are the basis of the assessment of taxes in the district.

(b) The assessment can again be modified or changed but there can be no reassessment of benefits that will in any way render any outstanding bonds or other indebtedness of the district insecure. The sum of benefits as reassessed may never be less than the sum of all outstanding bonds and other indebtedness of the district.

(c) The commissioners court of each county in which the district is located shall levy and have assessed and collected taxes based on the reassessment, at a rate sufficient to provide funds to pay the interest on all outstanding bonds and other indebtedness of the district, to pay the bonds or other indebtedness at maturity, and to provide the necessary sinking funds to pay all bonds or other indebtedness that may be issued.

(d) If the plan of reclamation is modified, or if extensive repairs or additions are made, the provisions of this section apply to districts that levy taxes on the ad valorem basis, but the commissioners of appraisal shall assess only the damages which will accrue to the property inside or outside the district as a result of the changes in the plan. (R.S. Art. 8033.)

§ 57.276. Maintenance Tax Election

(a) If the board desires an election in the district on the question of a maintenance tax or other proposition, they shall petition the commissioners court of jurisdiction for an election.

(b) The commissioners court shall order the election, and notice shall be given and the election shall be held according to the provisions of Sections 57.203–57.207 of this code. (R.S. Art. 8006.)

(c) The proposition in a maintenance tax election may be for a specific tax rate, or for a specific maximum rate. (R.S. Art. 8013, sen. 1 (part).)

§ 57.277. Levy of Maintenance Tax

(a) If a maintenance tax is approved at an election, the commissioners court of each county in which any portion of the district is located shall levy and have assessed and collected taxes on all taxable property inside the district based on the net benefits to the property that will be accomplished by the plan of reclamation if the district provides for levying taxes on a benefit basis or on the value of each piece of property as made for state and county purposes if the district provides for levying taxes on the ad valorem basis.

(b) The tax rate shall not be more than the specific rate approved at the election.

(c) The district shall use money obtained from the maintenance tax only for maintenance, upkeep, and repair, to make additions to the levees and other improvements in the district, and for other purposes stated in this chapter. (R.S. Art. 8013, sen. 1 (part), 2.)

§ 57.278. Repeal of Right to Levy Maintenance Tax

(a) The district may levy a maintenance tax until the authority to levy a maintenance tax is repealed by another election.

(b) The district may not hold elections on the question of repealing or reducing the maintenance taxes more often than every five years. (R.S. Art. 8013, sen. 3 (part).)

§ 57.279. Collection of Delinquent Taxes

(a) Taxes levied under this chapter are a first and prior lien on all property against which they are assessed and are payable, mature, and become delinquent as provided by law for state and county taxes.

(b) The collection of delinquent taxes and the sale of property for the payment of the taxes is governed by the law relating to the collection of delinquent state and county taxes, and the district assessor and collector shall have the same duties and powers for collecting delinquent taxes as the county tax assessor and collector has for collecting delinquent state and county taxes.

(c) The board also may collect delinquent taxes and may institute and prosecute suits in the name of the district to collect the taxes, and the district may do all other things necessary to collect delinquent taxes. (R.S. Art. 8016, sen. 1 (part), 2, 3.)

§ 57.280. Suits to Collect Delinquent Taxes

(a) The board may collect delinquent taxes by bringing suit in the name of the district for the collection of the taxes and the foreclosure of the lien on the property. The suit shall be brought in the district court of the county in which the land or the major part of the land is located.

(b) The board is not required to publish a delinquent tax list or give other delinquent tax notice before proceeding to bring suit to collect the delinquent taxes. (R.S. Art. 8017, sen. 1 (part), 7, as amended.)

§ 57.281. Employing Attorneys

(a) The board may employ an attorney to collect delinquent taxes, and may determine the fees or commissions to be paid to the attorney for his services. (R.S. Art. 8017, sen. 13, as amended.)

§ 57.282. Notice

(a) An action to collect delinquent taxes shall be in the nature of a proceeding in rem, and jurisdiction of landowners and other parties interested can be obtained by publication of a general notice of the proceeding.

(b) The notice shall be published once each week for at least four consecutive weeks in a newspaper with general circulation published in the county or counties in which the district is located, and if no paper is published in the county, then the notice shall be published in a newspaper in the nearest county where a paper is published.

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(c) A written notice shall be mailed to the last known address of the landowner and shall be substantially in the following form:
_____ County Levee Improvement District No. _____
vs. delinquent land in _____ County and the district. In the district court of _____ County, Texas, _____ Judicial District
_____ Term, 19_____.

Notice is given to all parties having or claiming an interest in any of the following described land that on the _____ day of _____, 19____, suit was filed in the district court of _____ County, Texas, at _____, Texas, to enforce the collection of certain levee district taxes on the following described land.

The name of each supposed owner is set opposite his land, together with the amount due on each tract, to wit:

(The list of supposed owners, with a description list of the delinquent land, and the amount due on each tract.)

All persons or corporations having or claiming an interest in the listed lands are notified to appear at the next regular term of the district court of _____, County, Texas, to be held at the courthouse in _____, on the _____ Monday in _____, 19____, the _____ day of _____, 19____, then and there to answer a petition filed in the court in the above numbered and entitled cause. If an answer is not filed, final judgment will be entered directing the sale of the land for the purpose of collecting the delinquent taxes, and payment of interest, penalties, attorney's fees, and other costs allowed by law.

Given under my hand and the seal of the court in the city of _____, Texas, this _____ day of _____ A.D. 19____.

Clerk of the District Court of
_____ County, Texas.

Issued this _____ day of _____ A.D. 19____.

Clerk of the District Court of
_____ County, Texas.

(d) The publication of the notice of the suit to collect the taxes and the written notice addressed to the last known address of the landowner shall be sufficient service of process against any owner, vendor, mortgagee, heir, or other person claiming an interest in the land, and the judgment in the case is binding on each tract of land and the owner of every interest in the land. (R.S. Art. 8017, sen. 2, 3, 4, 5, 6, as amended.)

§ 57.283. Procedure for Suit to Collect Delinquent Taxes

(a) Suits brought to collect taxes shall be conducted according to the practice and procedure of the district court, except as otherwise provided in this chapter.

(b) In a suit to collect taxes it is sufficient to:

(1) allege generally and briefly the organization of the district and the nonpayment of the taxes;

(2) give a reasonable description of the land involved and the amount charged to each tract;

(3) request a foreclosure. (R.S. Art. 8017, sen. 9 (part), 10, as amended.)

(c) If the ownership of the land is incorrectly alleged in the proceedings, it is immaterial. (R.S. Art. 8017, sen. 1 (part), as amended.)

(d) A defendant in a suit to collect taxes may not use as a defense an irregularity in the assessment of the land, or a mistake in the name of the owner, the number of acres, or the amount of the taxes, interest, and penalty as alleged in the pleadings or in the notice of the suit; but the correct amount of taxes, interest, and penalty due may be proved and the judgment rendered on the correct amount. (R.S. Art. 8017, sen. 9 (part), as amended.)

(e) When the notice, petition, and answer have been filed with the clerk of the district court, he shall place the case on the docket, and the case has precedence over all other cases. (R.S. Art. 8017, sen. 8, as amended.)

(f) The district court may grant a continuance only for good cause shown and may grant a continuance in suits involving part of the land and proceed to hear and decide suits on which no continuance is granted. (R.S. Art. 8017, sen. 11, as amended.)

(g) The procedure provided for collection of delinquent taxes is cumulative, and does not repeal or supersede any other procedure provided in this chapter for the collection of taxes. (R.S. Art. 8017, sen. 14, as amended.)

§ 57.284. Judgment; Sale of Land

(a) In a suit to collect delinquent taxes, if the ruling is in favor of the district, the court shall enter judgment against each tract of land for the amount of the delinquent taxes plus penalties, interest, attorney's fees, and costs.

(b) The judgment shall provide for the sale of each tract of land by the sheriff or a constable of the county in which the land is located. The land shall be sold in the manner provided for other judicial sales of land. (R.S. Art. 8017, sen. 1 (part), as amended.)

(c) The foreclosure decree on the land shall include a writ of possession.

(d) If all the land and other real property that is the subject of the foreclosure decree is not sold on the date advertised, the sales shall continue from day to day until completed.

(e) The sheriff or constable shall by proper deed convey to the purchaser the land sold, and the title of the land becomes vested in the purchaser, good against all others except the former owner, who for two years from the date of the purchaser's deed has the right to redeem the land by paying double the amount of money paid for the land. (R.S. Art. 8017, sen. 12 (part), as amended.)

[Sections 57.285–57.320 reserved for expansion]

SUBCHAPTER I. DISSOLUTION

Section 57.321. Dissolution of a District

Subject to the provisions of Sections 50.251–50.256 of this code, if the commissioners court finds at any time before the sale of a district's bonds or final lending of its credit in another form that the proposed undertaking for any reason is impracticable or apparently cannot be successfully accomplished, the commissioners court may dissolve the district. (R.S. Art. 8029, sen. 1 (part).)

§ 57.322. Requirements for Dissolving a District

(a) To dissolve a district, a petition signed by the owners of a majority of the acreage in the district requesting the commissioners court to dissolve the district and stating the reasons for dissolution must be presented.

(b) At the time the petition is filed, a \$50 deposit shall be made to pay for the expenses of a hearing on the petition.

(c) The petition shall be set for a hearing, notice shall be given, the hearing held, and the expense deducted from the deposit in the manner provided in this chapter for creation of the district.

(d) The commissioners court has the same powers over dissolution of a district that it has over creation of a district.

(e) If at the hearing the commissioners court finds that the district should be dissolved, it shall render a judgment reciting its findings and enter an order on its records declaring the district dissolved.

(f) The commissioners court shall appoint the chairman of the board or some other suitable person as trustee to close the affairs of the district without delay, and shall determine the length of the term and the amount of compensation for the trustee.

(g) If the commissioners court finds that the district should not be dissolved, it shall dismiss the petition at the cost of the petitioners and enter its findings on record. (R.S. Art. 8029, sen. 1 (part), 2, 3, 4.)

§ 57.323. Return of Taxes on Dissolution

(a) If a district is dissolved, the commissioners court shall order returned to the taxpayers ratably any unspent taxes that have been levied and collected in the name of the district in anticipation of an issue of bonds.

(b) Before the taxes are returned, the compensation due the assessor and collector and the treasurer and any other claim properly charged against the taxes must be deducted from them.

(c) The treasurer shall receive and file proper receipts for all sums refunded. (R.S. Art. 8029, sen. 5.)

§ 57.324. Dissolving a District by Election

A district may dissolve its corporate existence by election. (R.S. Art. 8029—a, sen. 1, as added.)

§ 57.325. Petition

To dissolve a district by election, a person shall present a petition, signed by the owners of a majority of the acreage in the district, to the

commissioners court at a regular session, requesting the commissioners court to dissolve the district. (R.S. Art. 8029—b, sen. 1 (part), 2, as added.)

§ 57.326. Election Order

(a) After it receives a petition under Section 57.325 of this code, the commissioners court shall order an election to be held in the district at the earliest possible legal time to determine whether or not the district should be dissolved. (R.S. Art. 8029—b, sen. 1 (part), as added.)

(b) If the proposition to dissolve the district fails to carry at the election, the commissioners court may not order another election for the same purpose within one year after the result of the election has been announced officially. (R.S. Art. 8029—a, sen. 2, as added.)

§ 57.327. Election Procedure, Time, and Place for Holding Election

The provisions of Sections 57.203–57.207 of this code apply, so far as possible, to a dissolution election. (New.)

§ 57.328. Ballot

The commissioners court shall have the ballots printed to provide for voting for or against the following proposition and no other: "Dissolving the levee improvement district." (R.S. Art. 8029—c, sen. 4, as added.)

§ 57.329. Vote Necessary to Carry Proposition

More than two-thirds of the persons voting in the election must vote to dissolve the district to carry the proposition. (R.S. Art. 8029—c, sen. 3, as added.)

§ 57.330. Commissioners Court Order Dissolving District

(a) If the proposition to dissolve the district carries, the commissioners court shall make an order substantially as follows: "(Name of petitioner) and (number of other petitioners) others presented a petition asking for an election to decide whether or not (name of county) County Levee Improvement District (district number) should be dissolved. The commissioners court held the election on (date), and more than two-thirds of the resident property taxpayers voting in the election voted to dissolve the district. As a consequence of the election result, (name of county) County Levee Improvement District (district number) is dissolved."

(b) The commissioners court shall enter the order in its minutes. (R.S. Art. 8029—d, sen. 1 (part), 2, as added.)

§ 57.331. Dissolution Trustees

The commissioners court shall appoint as trustees, three landowners of the district, and the three appointed landowners assume the duties of trustees at the time they file the bond required under Section 57.332 of this code. (R.S. Art. 8029—g, sen. 1 (part), as added.)

§ 57.332. Trustees' Bond

(a) When the commissioners court issues the dissolution order under Section 57.330 of this code, the trustees shall execute jointly a good and

sufficient bond in an amount sufficient to cover the amount of the outstanding bonds and other debts of the district, payable to and approved by the county judge, conditioned on the trustees faithfully performing their duties as trustees and paying money and delivering other property of the district over which they have control to the persons entitled to the money or other property.

(b) When the bond is executed, it shall be recorded in the minutes of the commissioners court. When the bond is approved, it supersedes the bond the treasurer executed under Section 57.065 of this code. (R.S. Art. 8029—g, sen. 1 (part), 2, 3, as added.)

§ 57.333. Trustees' Compensation

(a) The trustees are entitled to receive for their services as trustees a one-half of one percent commission on all money they receive for the district and a one-half of one percent commission on all money they pay out as trustees. This commission is the entire compensation for all three trustees.

(b) The trustees are not entitled to a commission on money in the treasury when they become the trustees or on money in the treasury when their trusteeship ends. (R.S. Art. 8029—o, sen. 1, 2, as added.)

§ 57.334. Appointment of Trustee to Fill Vacancy

In case of death or resignation of a trustee, the commissioners court shall appoint a successor to fill the vacancy. (R.S. Art. 8029—q, as added.)

§ 57.335. General Duties of Trustees

(a) The trustees have control of the disposition and sale of all district property. (R.S. Art. 8029—g, sen. 1 (part), as added.)

(b) The trustees have control of all the property of the district, including the money in the treasury, and shall keep the district's money and all its books, notes, accounts, and choses in action of every kind.

(c) The trustees may sue to recover property and collect debts of the district, and may employ counsel in suits and in caring for the district's property and managing the district's dissolution. (R.S. Art. 8029—h, as added.)

§ 57.336. Trustees' Expense

(a) The trustees shall make a charge against the trust estate for each reasonable expense incurred by them in conducting the business of the district and in litigating a suit for the district.

(b) The trustees shall charge any unpaid counsel fees or court costs incurred by former district officers against the trust estate.

(c) The trustees shall present the charges against the trust estate to the commissioners court and shall post notice in the manner provided for other claims against the district.

(d) If the commissioners court approves a charge against the trust estate, the charge becomes a valid, preferred claim against the district.

(e) The trustees, acting as treasurer, may retain money in their control to pay for a valid claim which they have against the district.

(f) If the commissioners court rejects a part of an expense which the trustees think is a valid claim, the trustees may appeal the decision as other claimants. (R.S. Art. 8029—n, as added.)

§ 57.337. Claims that Were Approved before District Was Dissolved

The trustees shall pay all unpaid bonds and claims outstanding against the district before the commissioners court issues the dissolution order except¹² those which are protested according to the provisions of Section 57.338 of this code. (R.S. Art. 8029—j, sen. 3, as added.)

§ 57.338. Protesting Payment of Claims Approved before District Was Dissolved

(a) If a person who pays taxes in the district protests the payment of a claim filed under Section 57.337 of this code, the trustees shall refuse to pay the claim.

(b) The protest is sufficient to cause the trustees to disallow the claim if the person making the protest files the protest with the trustees, along with a bond for twice the amount of the claim, signed by sufficient sureties approved by the trustees, payable to the trustees, and conditioned on the protesting taxpayer's¹³ paying all costs of suit if the claimant establishes his claim in full.

(c) A person whose claim is disallowed under this section may sue the trustees for the amount he claims. (R.S. Art. 8029—m, sen. 1, as added.)

§ 57.339. Claims not Approved Before District Was Dissolved

(a) A person who has a claim or judgment against the district which was not approved by the commissioners before the district was dissolved may collect on the claim only by following the procedure prescribed in this section and Sections 57.340–57.342 of this code. (R.S. Art. 8029—i, sen. 1 (part), as added.)

(b) The person must present the claim, duly verified, to the trustees within six months after the day the commissioners court approves the bond of the trustees. (R.S. Art. 8029—i, sen. 1 (part), as added.)

(c) The trustees shall examine the claim, and if the trustees find that the claim is correct, they shall allow it. If the trustees allow the claim, the person making the claim must file it with the county clerk not less than 20 days before the beginning of the regular session of the commissioners court that follows the date the trustees allowed the claim. (R.S. Art. 8029—i, sen. 2 (part), as added.)

(d) If the trustees find that it would be unjust for them to allow a claim, they shall endorse on the claim their refusal to allow it, and the person making the claim may sue the trustees for the amount he claims in any court of competent jurisdiction in the county. (R.S. Art. 8029—k, sen. 1 (part), as added.)

(e) If the trustees find that it would be unjust for them to allow part of the claim, they shall endorse on the claim the parts of it they allow and the parts they disallow. The person making the claim may either waive his claim to the part disallowed and file the claim with the commissioners court or refuse to waive his claim to the part disallowed, withdraw the claim from the trustees, and sue the trustees for the amount he claims. (R.S. Art. 8029—k, sen. 2, 3, as added.)

§ 57.340. Claims, Payment Orders, and Appeals

(a) The commissioners court, in a regular session, shall pass on claims. The commissioners court shall approve each claim it finds to be correct and shall issue an order stating that approval and shall enter the order in its minutes. (R.S. Art. 8029—j, sen. 1 (part), as added.)

¹² So in enrolled bill.
¹³ So in enrolled bill.

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(b) When the order of approval is entered in the minutes, the claim becomes a valid claim against the district. (R.S. Art. 8029—j, sen. 1 (part), as added.)

(c) If the commissioners court approves a claim under this section, the person making the claim shall file the claim with the trustees. (R.S. Art. 8029—j, sen. 2 (part), as added.)

(d) If the person making the claim is not satisfied with the terms of the order of approval or if the commissioners court refuses to approve the claim, the person may appeal the decision of the commissioners court. (R.S. Art. 8029—l, as added.)

(e) When a claim is filed under Section 57.339 of this code, the county clerk shall immediately issue notice of the filing to all persons interested in the district. The notice shall be posted in three public places in the district and at the courthouse door not less than 20 days before the next regular session of the commissioners court. (R.S. Art. 8029—i, sen. 2 (part), 3, as added.)

§ 57.341. Claims Judgments

(a) If a person making a claim sues the trustees for the amount of the claim and wins a judgment against the trustees, the person shall file the judgment with the trustees. (R.S. Art. 8028—m, sen. 3 (part), as added; R.S. Art. 8029—k, sen. 1 (part), as added.)

(b) If the suit contests a claim under Section 57.338 of this code, the contestant and his sureties shall be made parties to the suit, and the trustees shall assert all defenses urged against the claim in the protest. If the claimant wins a judgment for the whole amount of his claim, the court shall render a judgment against the contestant and his sureties for all costs incurred in the suit. (R.S. Art. 8029—m, sen. 2, 3 (part), as added.)

§ 57.342. Claims to be Paid

The trustees shall pay from money left in the district's treasury on dissolution claims filed with them under Sections 57.336, 57.337, and 57.339 of this code, in the order that the claims are filed. (New.)

§ 57.343. Disposition of Debts after Election

(a) If the district is dissolved, the commissioners court shall provide for the settlement of the debts of the district, including the costs and expenses of holding the election.

(b) The commissioners court may levy, assess, and collect a sufficient tax on the property in the district in the manner provided in this chapter, to pay all the valid debts and obligations of the district, except bonds issued and held by a purchaser.

(c) The district shall pay bonds that have been issued and are held by a purchaser according to the terms of the bonds by levy and collection of an annual tax as provided in this chapter unless retirement of the bonds is effected as provided in Section 57.344 of this code. (R.S. Art. 8029—e, as added.)

§ 57.344. Accelerated Retirement of Bonds

(a) If there are any district bonds outstanding at the time the commissioners court issues the dissolution order, the commissioners court shall

immediately begin negotiations with the holders of the bonds to determine whether or not the retirement of the bonds can be accelerated.

(b) If the bonds can be retired at an earlier date than the date stipulated on their face, either as a result of the terms of the bonds or because of an agreement between the commissioners court and the holders of the bonds, then the commissioners court may levy a tax to pay off the bonds as quickly as possible.

(c) The commissioners court shall have the tax assessed and collected annually or at one time. (R.S. Art. 8029—f, as added.)

§ 57.345. Compensation for Tax Assessor and Collector

(a) The county assessor and collector is entitled to receive the same compensation for assessing and collecting taxes authorized by Sections 57.343 and 57.344 of this code as he receives for assessing and collecting taxes under Subchapter H of this chapter.

(b) The commissioners court shall provide for the assessor and collector's compensation in the order of the commissioners court assessing the taxes. (R.S. Art. 8029—o, sen. 3, as added.)

§ 57.346. Final Trustee Report

(a) After the trustees pay all valid claims established against the district and satisfy the cost and expenses of controlling and managing the district, they shall file a report of the final settlement with the commissioners court.

(b) The trustees shall include in the report:

(1) a full and complete account of all money received and paid during their trusteeship;

(2) an account of the disposition of all property which came under their control as trustees; and

(3) an account of all other matters relating to the management of the affairs of the district.

(c) On the approval of the report, the commissioners court shall direct the trustees to turn over any property or money remaining in their control to the person designated by the commissioners court to receive the money or property.

(d) When the trustees have complied with the direction of the commissioners court, they shall report their compliance to the commissioners court. After the trustees have reported their compliance, the commissioners court shall discharge the trustees and their sureties and close the trust estate. (R.S. Art. 8029—p, as added.)

**CHAPTER 60. NAVIGATION DISTRICTS—GENERAL
PROVISIONS**

SUBCHAPTER A. GENERAL PROVISIONS

Section 60.001. Definitions

In this chapter:

- (1) "District" means a navigation district organized under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution.
- (2) "Commission" means the navigation and canal commission.
(New.)

[Sections 60.002–60.010 reserved for expansion]

**SUBCHAPTER B. RETIREMENT, DISABILITY, AND
DEATH COMPENSATION FUND**

Section 60.011. Creation of Retirement, Disability, and Death Compensation Fund

(a) The commission of any district created under this code or by special law may provide for and administer a retirement, disability, and death compensation fund for district officers and employees and may adopt plans to effectuate this purpose.

(b) The plans may include forms of insurance or annuities, or a combination of both, which the commission considers advisable.

(c) After notice to employees and a hearing, the commission may change the plan or any rule or regulation. (54th Legis., Ch. 252, Sec. 1.)

§ 60.012. Investment of Funds

(a) Money in the retirement, disability, and death compensation fund shall be invested as provided in Subsections (b) and (c) of this section, and the commission may change from one method of investment to the other or to any combination of the two.

(b) The money in the retirement, disability, and death compensation fund may be invested in bonds of:

- (1) the United States;
- (2) the State of Texas;
- (3) county, city, or other governmental subdivisions of the State of Texas; or
- (4) any agency of the United States, if payment of principal and interest is guaranteed by the United States.

(c) The money in the retirement, disability, and death compensation fund also may be invested in:

- (1) life insurance policies;
- (2) endowment or annuity contracts; or
- (3) interest-bearing certificates of legal reserve life insurance companies authorized to write such contracts in Texas.

(d) If the method of investment authorized under Subsection (b) of this section is followed, the commission shall keep a sufficient amount of money in the fund to meet amounts likely to become due each year. (54th Legis., Ch. 252, Sec. 2 (part).)

§ 60.013. Eligibility for Other Pension Funds

The recipients or beneficiaries of a fund created under Section 60.011 of this code shall not be eligible for any other pension retirement funds or direct aid from the State of Texas unless the fund provided for in Section 60.011 of this code is released to the State of Texas as a condition precedent to receiving the other pension aid. (54th Legis., Ch. 252, Sec. 2 (part).)

§ 60.014. Hospitalization and Medical Benefits

(a) The commission may include hospitalization and medical benefits for officers and employees as part of the compensation paid to the officers and employees.

(b) The commission may provide for the benefits in Subsection (a) of this section by plan, rule, or regulation, and may change any plan, rule, or regulation from time to time. (54th Legis., Ch. 252, Sec. 3.)

[Sections 60.015–60.030 reserved for expansion]

SUBCHAPTER C. ADDITIONAL POWERS AND DUTIES OF CERTAIN DISTRICTS**Section 60.031. Application of Subchapter**

The provisions of this subchapter shall apply to any district not participating with the United States in a navigation project. (44th Legis., Ch. 134, Sec. 1 (part), as amended.)

§ 60.032. Authority to Construct Improvements

The district may construct out of any of its funds, except interest and sinking funds, turning, storage, or yacht basins, harbors, or any facilities which may, in the judgment of the commission, be necessary or useful in the development and utilization of a waterway project for navigation purposes or in aid of navigation purposes. The district may own or lease dredges and other equipment for the construction or maintenance of those projects. (44th Legis., G.L., Ch. 134, Sec. 1 (part), as amended.)

§ 60.033. Use of Equipment

(a) This subchapter does not authorize a district to borrow or receive money or to levy taxes for the purpose of building tugs, barges, scows, dredges, pile drivers, or other floating equipment for use on the water of the United States other than water coming under the jurisdiction of the district or water necessarily adjunctive to the use of the district, as set forth in Section 60.031 of this code.

(b) Dredges or other equipment, whether owned or leased, shall be confined to use on water under control of the district or a necessary adjunctive part of the district and may not be used in any work or service on any state or federal waterway which is not a necessary adjunctive part of the district. (44th Legis., G.L., Ch. 134, Sec. 1 (part), as amended.)

§ 60.034. Oil, Gas, and Mineral Leases

The commission may lease for oil, gas, and minerals rights-of-way, spoil grounds, spoil basins, or any other land owned by a navigation dis-

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strict if it does not interfere with use of or obstruct any natural or artificial waterway of the district used for navigation purposes. (44th Legis., G.L., Ch. 134, Sec. 1 (part), as amended.)

§ 60.035. Notice of Oil, Gas, and Mineral Lease

(a) Before a lease may be executed by the commission under Section 60.034 of this code, the commission shall have a notice requesting bids on the lease published in a newspaper of general circulation in the district. The notice shall be published at least once a week for two consecutive weeks before the final date for the receipt of bids.

(b) The notice shall include:

- (1) the approximate amount of land offered;
- (2) the general location of the land;
- (3) the time and place for receipt of bids;
- (4) the place where specifications may be obtained;
- (5) information concerning security for the bids; and
- (6) a statement that the commission reserves the right to reject any or all bids. (44th Legis., G.L., Ch. 134, Sec. 1 (part), as amended.)

§ 60.036. Security for Bid on Oil, Gas, or Mineral Leases

Each bid submitted shall be accompanied by a certified check, cashier's check, or bidder's bond with a responsible corporate surety authorized to do business in Texas. The check or bond shall be in an amount equal to the first rental payment and bonus offered for the lease over and above the royalty and shall guarantee that the bidder will perform the terms of his bid if it is accepted by the commission. (44th Legis., G.L., Ch. 134, Sec. 1 (part), as amended.)

§ 60.037. Award and Execution of Oil, Gas, and Mineral Leases

(a) The commission may lease all or any part of land advertised for lease under Section 60.035 of this code.

(b) The lease shall be awarded to the highest and best bidder and shall reserve at least one-eighth royalty of all gas, oil, or minerals in or produced on the land. The lease shall contain other provisions reasonably necessary to protect the interests of the district and may not be less favorable to the district than customary commercial leases in the locality.

(c) The chairman and secretary of the commission shall execute the lease under an order, entered in the minutes of the commission, which shall include the consideration for the lease. (44th Legis., G.L., Ch. 134, Sec. 1 (part), as amended.)

§ 60.038. Sale or Lease of Land

(a) A district may sell or lease all or any part of land owned by it, whether the land is acquired by gift or purchase, in settlement of any litigation, controversy, or claim in behalf of the district, or in any other manner.

(b) Land which is sold or leased shall be declared surplus land and shall not be needed for use by the district in connection with the development of a navigation project.

(c) Sale or lease of land shall be made as provided by Sections 60.039–60.042 of this code. (44th Legis., G.L., Ch. 134, Sec. 1 (part), as amended.)

§ 60.039. Surface Lease for not more than Five Years

The commission may lease the surface of land for not more than five years by the entry of an order on the minutes of the commission and the execution of a lease in the manner provided by the original order. The lease may not be extended beyond the five-year period by renewal, extension, or otherwise. (44th Legis., G.L., Ch. 134, Sec. 1 (part), as amended.)

§ 60.040. Publication of Notice for Sales and Leases in Excess of Five Years

Before making a sale or lease of land for more than five years, the commission shall publish a notice in the manner provided in Section 60.035 of this subchapter. (44th Legis., G.L., Ch. 134, Sec. 1 (part), as amended.)

§ 60.041. Security for Bids on Land to be Sold or Leased for more than Five Years

Each bid submitted on land to be sold or leased for more than five years shall be accompanied by a certified check, cashier's check, or bidder's bond with a responsible corporate surety authorized to do business in Texas. The check or bond shall be in an amount equal to the bid for the land or for the first rental payment under the lease and shall guarantee that the bidder will perform the terms of his bid if it is accepted by the commission. (44th Legis., G.L., Ch. 134, Sec. 1 (part), as amended.)

§ 60.042. Award and Execution of Deed or Lease in Excess of Five Years

(a) After notice is published under Section 60.040 of this code, the commission may sell or lease all or any part of the land to the highest and best bidder for an amount which is not less than the reasonable market value in the locality at the time and place of the sale or lease.

(b) The commission shall enter an order in its minutes confirming the sale or lease. The order shall include the terms of the sale or lease and the consideration and shall provide that the commission will execute a deed or lease as soon as the successful bidder complies with the terms of his bid. (44th Legis., G.L., Ch. 134, Sec. 1 (part), as amended.)

§ 60.043. Power Over Waterways

(a) The commission shall have absolute control over channels, or other waterways within the corporate limits of the district and turning basins, yacht basins, and storage basins. The commission may prevent or remove any obstructions of these facilities and fix proper fees, charges, and tolls for their use.

(b) The fees, charges, and tolls charged by the district shall be in addition to charges made, as provided by law, for any facilities used by any ship, boat, vessel, or any other character of craft used for water transportation for commercial purposes. The term commercial purposes shall be limited to any common carrier, contract carrier, or public or private carrier that shall transport or have transported persons, commodities, goods, wares, or merchandise for hire or compensation. (44th Legis., G.L., Ch. 134, Sec. 1 (part), as amended.)

§ 60.044. Law Governing Commission

The commission of any district operating under this subchapter shall be governed by the provisions of Sections 63.087–63.088 and 63.090–63.094 of this code. (44th Legis., G.L., Ch. 134, Sec. 1 (part), as amended.)

[Sections 60.045–60.070 reserved for expansion]

SUBCHAPTER D. REGULATORY POWERS

Section 60.071. General Rule-making Authority

The commission of a district which owns, operates, and maintains wharves, docks, piers, sheds, warehouses, and other similar terminal facilities which are not located inside the boundaries of any incorporated city, town, or village may pass, amend, and repeal any ordinance, rule, or police regulation which is not contrary to the constitution or laws of this state and which is necessary to protect the property and to promote the health, safety, and general welfare of persons using the property. (57th Legis., Ch. 486, Sec. 1 (part), as amended.)

§ 60.072. Specific Powers of Districts

To accomplish the purposes stated in Section 60.071 of this code, the commission may exercise the following powers:

(1) control the operation of all types of vehicles using the roads maintained by the district, other than roads dedicated to public use by formal dedication, and prescribe the speed, lighting, and other requirements of these vehicles;

(2) prohibit loitering on docks, wharves, piers, warehouses, sheds, or other properties of the district;

(3) control the operation of all types of vessels using harbors, turning basins, basins, or navigable channels of the district and prescribe the speed, lighting, and other requirements of these vessels;

(4) prohibit smoking and the use of flares, open fires, and inflammable, highly combustible, or explosive substances and materials on docks, wharves, piers, warehouses, sheds, and other properties of the district, or on those parts of the properties and at those times or during those periods as may, in the judgment of the commission, be determined to be dangerous to any of the property or inimical to the safety or general welfare of persons using the property or parts of it;

(5) prevent on any of the property all trespasses, breaches of the peace and good order, assaults and batteries, fighting, quarrels, use of abusive, profane, or insulting language, disorderly conduct, and misdemeanor theft and punish offenders;

(6) suppress and prevent any riot, affray, disturbance, or disorderly assembly on any of the property; and

(7) license and regulate or suppress and prevent hawkers and peddlers utilizing or attempting to utilize the roads and other property of the district. (57th Legis., Ch. 486, Sec. 1 (part), as amended.)

§ 60.073. Enforcement

The commission may provide by ordinance for the enforcement of the provisions of this subchapter and of any ordinance, rule, or regulation made under this subchapter. (57th Legis., Ch. 486, Sec. 2, sen. 1.)

§ 60.074. Style of Ordinances

The style of an ordinance enacted by the commission shall be: "Be it ordained by the navigation and canal commissioners of the _____" (inserting the name of the navigation district). (57th Legis., Ch. 486, Sec. 5.)

§ 60.075. Publication of Ordinance, Rule, or Regulation; Proof of Publication

(a) Each ordinance, rule, or regulation enacted by the commission under this subchapter which imposes a fine or other penalty shall be published in every issue of a newspaper of general circulation published in the district for the 10-day period immediately following its adoption. If the only newspaper published in the district is published weekly, the publication shall be made in two consecutive issues of the newspaper.

(b) Proof of publication under Subsection (a) of this section shall be made by the printer or publisher of the newspaper by affidavit filed with the secretary of the commission and shall be prima facie evidence of publication and adoption of the ordinance, rule, or regulation in all courts of this state.

(c) In lieu of the publication of the entire ordinance, rule, or regulation, the commission may provide for the publication of a descriptive caption or title, stating in summary the purpose of the ordinance, rule, or regulation and the penalty for violation.

(d) An ordinance, rule, or regulation shall take effect and be in force from and after publication under Subsection (a) of this section unless otherwise provided. (57th Legis., Ch. 486, Sec. 6.)

§ 60.076. Conflict With Law

No ordinance, rule or regulation adopted by a district under this subchapter may conflict with any law, statute, rule, or regulation of this state. (57th Legis., Ch. 486, Sec. 7.)

§ 60.077. Authority of Peace Officers

In prosecutions involving the enforcement of the provisions of this subchapter or the enforcement of any ordinance, rule, or regulation of the district, any sheriff, constable, or other duly constituted peace officer of the State of Texas or any peace officer employed or appointed by the commission may make arrests, serve criminal warrants, subpoenas, or writs, and perform any other service or duty which may be performed by any sheriff, constable, or other duly constituted peace officer of the State of Texas in enforcing other laws of this state. (57th Legis., Ch. 486, Sec. 4.)

§ 60.078. Penalties

A violation of this subchapter or of an ordinance, rule, or regulation adopted by a district under this subchapter is a misdemeanor, and the commission may provide for the punishment of the misdemeanor by a fine of not more than \$200 for each offense or violation. (57th Legis., Ch. 486, Sec. 2, sen. 2.)

§ 60.079. Jurisdiction of Violations

Any justice court in the justice precinct in which an offense under this subchapter is alleged to have been committed or in any county court at

law in the county where an offense is alleged to have been committed, which county court at law has concurrent original jurisdiction with the justice court, shall have original jurisdiction of any misdemeanor or violation under this subchapter and original jurisdiction of any violation of an ordinance, rule, or regulation made under this subchapter. (57th Legis., Ch. 486, Sec. 3.)

[Sections 60.080–60.100 reserved for expansion]

**SUBCHAPTER E. POWERS OF DISTRICTS FOR IMPROVEMENT
OF PORT FACILITIES**

Section 60.101. Acquisition and Maintenance of Port Facilities

Any district may acquire land and purchase, construct, enlarge, extend, repair, maintain, operate, or develop:

- (1) wharves and docks;
- (2) warehouses, grain elevators, and bunkering facilities;
- (3) belt railroads;
- (4) floating plants and facilities;
- (5) lightering and towing facilities;
- (6) everything appurtenant to these facilities; and
- (7) all other facilities or aids incidental to or useful in the operation or development of the district's ports and waterways or in aid of navigation and commerce in the ports and on the waterways. (43rd Legis., 1st C.S., Ch. 111, Sec. 1, as amended.)

§ 60.102. Utility Relocation

(a) If a district in the exercise of the powers conferred by this subchapter or in the exercise of the power of eminent domain or the police power requires the relocating, raising, lowering, rerouting, or changing in grade, or altering in the construction of any railroad, electric transmission line, telegraph or telephone line, conduit, pole, properties or facilities, or pipeline, the relocating, raising, lowering, rerouting, changing in grade, or altering of construction shall be done at the sole expense of the district.

(b) "Sole expense" means the actual cost of the relocation, raising, lowering, rerouting, change in grade, or alteration of construction in providing comparable replacement without enhancement of the facilities, after deducting the net salvage value derived from the old facility. (43rd Legis., 1st C.S., Ch. 111, Sec. 1(a), as added.)

§ 60.103. Prescribing Fees and Charges

The commission shall prescribe fees and charges to be collected for the use of the land, improvements, and facilities of the district and for the use of any land, improvements, or facilities acquired under the provisions of this subchapter. The fees and charges shall be reasonable, equitable, and sufficient to produce revenue adequate to pay the expenses mentioned in Section 60.105 of this code. (43rd Legis., 1st C.S., Ch. 111, Sec. 2, sen. 1 (part), as amended.)

§ 60.104. Power to Borrow Money

(a) The commission, for the purposes stated in Subsection (b) of this section, may borrow money from the United States or from any other source and may evidence the debt by issuing notes, warrants, certificates of indebtedness, negotiable bonds, or other forms of obligation of the district payable solely out of the revenue to be derived from land, improvements, and facilities.

(b) The commission may use the money to acquire land and waterways and all improvements on or to the land and waterways and to acquire, purchase, construct, enlarge, extend, repair, maintain, operate, or develop wharves, docks, warehouses, grain elevators, bunkering facilities, belt railroads, floating plants and facilities, lightering and towing facilities, everything appurtenant to them, and all other facilities or aids incidental to or useful in the operation or development of the district's ports and waterways or in the aid of navigation and commerce in the ports and waterways.

(c) Obligations issued under this subchapter shall not constitute an indebtedness or pledge of credit of the district and may not be paid in whole or in part from any funds raised or to be raised by taxation. Each obligation shall contain a recital to this effect. (43rd Legis., 1st C.S., Ch. 111, Sec. 3, as amended; Sec. 18a, as added; Sec. 4, sen. 2.)

§ 60.105. Expenses to be Paid from Current Revenues

(a) The commission shall pay from revenue raised under Section 60.103 of this code:

(1) all expenses necessary to the operation and maintenance of the improvements and facilities, including the cost of the acquisition of properties and materials necessary to maintain the improvements and facilities in good condition and operate them efficiently, the wages and salaries paid to the employees of the district, and other expenses necessary to the efficient operation of the improvements and facilities;

(2) the annual or semiannual interest on any obligations issued under this subchapter and payable out of the revenue of the improvements and facilities; and

(3) the amount required to be paid annually into the sinking fund for the payment of any obligations issued under this subchapter and payable out of the revenue of the improvements and facilities.

(b) No expenses other than those authorized by Subsection (a) of this section may be paid from the revenue of the improvements and facilities as long as the principal and interest on any obligations issued under this subchapter remain outstanding and unpaid. Any revenue received in excess of that required for the purposes stated in Subsection (a) of this section may be used by the commission to pay the cost of improvements and replacements which are not listed and may establish a depreciation fund. (43rd Legis., 1st C.S., Ch. 111, Sec. 2, sen. 1 (part), 2, 3, 4, as amended.)

§ 60.106. Pledge of Revenue for Payment of Obligations

(a) In proceedings to authorize the issuance of obligations under this subchapter, the district may make the obligations payable from and secured by the pledge of all or part of the revenue derived from the owner-

ship or operation of the land, improvements, facilities, or other properties of the district, exclusive of revenue derived from taxation or assessments, or payable from and secured by the pledge of only revenue which may be derived from the ownership or operation of the land, improvements, facilities, or properties acquired with the proceeds of the sale of the obligations.

(b) The obligations may be issued in more than one series and at any time at which they may be required for carrying out the purposes of the district.

(c) Any pledge of revenue may reserve the right under conditions, specified in the pledge, to issue additional obligations which will be on a parity with, senior to, or subordinate to the obligations then being issued (43rd Legis., 1st C.S., Ch. 111, Sec. 5, as amended.)

§ 60.107. Mortgage as Additional Security

(a) As additional security for the payment of any obligations issued under this subchapter, the commission may execute in favor of the holders of the obligations an indenture, mortgaging and encumbering the improvements, facilities, and properties acquired with the proceeds of the sale of the obligations. The commission may provide in the indenture for a grant to any purchaser, at a foreclosure sale under the indenture, a franchise to operate the improvements, facilities, and properties for a term of not more than 50 years from the date of purchase, subject to all regulatory laws.

(b) The indenture may contain the terms and provisions the commission considers proper and shall be enforceable in the manner provided by the laws of this state for the enforcement of other mortgages and encumbrances.

(c) Under any sale ordered pursuant to the provisions of an indenture, the purchaser and his successors or assigns shall be vested with a permit and franchise to maintain and operate the improvements, facilities and properties purchased at the sale and shall have the same powers and privileges as could previously have been exercised by the district in the operation of the improvements, facilities, and properties. The purchaser or his successors and assigns may remove all or part of the improvements, facilities, and properties for diversion to other purposes.

(d) Any laws of this state relating to the granting of franchises are not applicable to either the granting of any franchise or authorizing or executing of any mortgage or encumbrance entered into pursuant to the provisions of this subchapter. (43rd Legis., 1st C.S., Ch. 111, Sec. 10.)

§ 60.108. Issuance of Obligations

(a) The commission may provide that obligations issued under this subchapter are payable annually or semiannually and may issue the obligations in any denominations and may have them mature serially or at one time not more than 40 years from their date.

(b) The obligations shall be signed by the chairman and secretary of the commission, and the interest coupons attached to the obligations may be executed with the facsimile signatures of these officers. The obligations shall be valid and sufficient for all purposes even though the officers whose signatures are on the obligations or coupons cease to be officers before delivery to the purchaser.

(c) Any obligations issued under this subchapter shall be in registered or coupon form, and if the obligations are in coupon form, they may be registered with relation to principal only or with relation to both principal and interest.

(d) The commission may sell the obligations in the manner and at the time which it considers expedient and necessary to the interests of the district.

(e) The commission may make principal and interest on the obligations payable at any place or places inside or outside the State of Texas and may make the obligations redeemable before maturity at the premium determined by the commission.

(f) Each issue of obligations authorized under this subchapter shall constitute a separate series which shall be appropriately designated. These obligations constitute negotiable instruments within the meaning of the negotiable instruments law. (43rd Legis., 1st C.S., Ch. 111, Sec. 4, sen. 1, 3, 4, 5, 6, 7, 8.)

§ 60.109. Sinking Fund

(a) A resolution or an order authorizing the issuance of obligations under this subchapter shall provide for the creation of a sinking fund which shall include sums fully sufficient to pay principal of and interest on the obligations. Money deposited in the sinking fund shall be taken from revenue pledged for the payment of the obligations and shall be deposited in the fund as the revenue is collected.

(b) The money in the sinking fund shall be applied solely to the payment of interest on the obligations for the payment of which the fund is created and for the retirement of the obligations at or before maturity in the manner provided by this subchapter.

(c) The commission, at the time obligations are authorized under this subchapter, may provide that all money in the sinking fund which is in excess of the amount required for the payment of the principal of and interest on the outstanding obligations, for a period of time it may determine, shall be spent once each year pursuant to the commission's orders for the purchase of obligations, if any can be purchased at a price the commission finds reasonable, for the account of which the sinking fund has been accumulated.

(d) If the obligations contain an option permitting retirement before maturity, the commission may provide that the excess sums shall be paid out as authorized by Subsection (b) of this section for the purchase of the obligations, but if the commission is unable to purchase sufficient obligations of the issue to absorb all the surplus, it shall call a sufficient amount of the obligations for redemption to absorb insofar as practicable the entire surplus remaining in the sinking fund.

(e) The commission may provide that any excess in the sinking fund which cannot be applied to the purchase or redemption of obligations shall remain in the sinking fund for payment of principal and interest and for subsequent call for purchase or redemption. (43rd Legis., 1st C.S., Ch. 111, Sec. 6.)

§ 60.110. Revenue Set Aside for Sinking Fund

(a) A resolution or an order authorizing the issuance of obligations under this subchapter shall provide that the revenue from which the obligations are to be paid shall, from month to month as it accrues and is re-

ceived, be placed in a sinking fund and disbursed in the manner provided in Section 60.109 of this code.

(b) In determining the amount of revenue to be set aside, the commission shall provide that the amount to be set aside and paid into the fund in any year shall not be less than a fixed sum which shall be at least sufficient to provide for the payment of the principal of and interest on all obligations which mature and become payable each year and shall include a surplus or margin of 10 percent in excess of that amount. (43rd Legis., 1st C.S., Ch. 111, Sec. 8.)

§ 60.111. Deposit of Proceeds of Obligations; Payment

(a) The proceeds of the sale of any obligations issued under this subchapter may be deposited in a bank or banks and paid out on terms and conditions agreed on by the purchaser at the sale and the commission.

(b) The laws of this state relating to the deposit of district funds in the depository of the district shall not apply to the deposit of the proceeds of a sale governed by Subsection (a) of this section.

(c) Any part of the proceeds of the sale of obligations issued under this subchapter which remains unspent after the project for which the obligations were authorized has been completed may be paid into the sinking fund for the payment of the obligations and may be used only for the payment of principal of the obligations or for the purpose of purchasing outstanding obligations in the manner provided by this subchapter. (43rd Legis., 1st C.S., Ch. 111, Sec. 11.)

§ 60.112. Insuring Improvements to Protect Holders of Obligations

(a) The commission may enter into agreements with purchasers of any obligations issued under this subchapter to insure improvements and facilities, the revenue of which is pledged to the payment of the obligations.

(b) The commission may obtain from insurers of good standing:

(1) insurance against loss or damage by fire, water, or flood;

(2) insurance against loss or damage from any hazards customarily insured against by private companies operating similar properties; and

(3) insurance covering the use and occupancy of the property as is customarily carried by private companies.

(c) The cost of the insurance shall be budgeted as maintenance and operation expense and shall be carried for the benefit of the holders of the obligations. (43rd Legis., 1st C.S., Ch. 111, Sec. 12.)

§ 60.113. Compelling Performance of Duties

A holder of obligations issued under this subchapter or coupons originally attached to the obligations may by any legal proceeding enforce and compel performance of all duties required by this subchapter to be performed by the commission. The duties which can be the basis of an action under this section shall include:

(1) the establishment and collection of reasonable and sufficient fees or charges for the use of improvements and facilities of the district;

(2) the segregation of the income and revenue from improvements and facilities; and

(3) the application of income and revenue pursuant to the provisions of this subchapter. (43rd Legis., 1st C.S., Ch. 111, Sec. 9.)

§ 60.114. Obligations Exempt from Taxation

Any obligations issued under this subchapter shall be exempt from taxation by the State of Texas, any municipal corporation, any county, or any other political subdivision or taxing district of the state. (43rd Legis., 1st C.S., Ch. 111, Sec. 14.)

§ 60.115. Refunding Obligations

(a) A district issuing obligations under the provisions of this subchapter may authorize issuance of its refunding obligations on terms its commission considers advisable for the purpose of providing for the retirement of outstanding obligations which are either due or to become due.

(b) The refunding obligations either may be exchanged for the same par amounts of outstanding obligations or may be sold and the proceeds of the sale exchanged for the same par amounts of outstanding obligations.

(c) Refunding obligations authorized and issued under Subsection (a) of this section are subject to the provisions of this subchapter relating to the issuance of other obligations and shall be secured in all respects to the same extent and shall be payable from the same revenue as the obligations which they refund. (43rd Legis., 1st C.S., Ch. 111, Sec. 15.)

§ 60.116. Approval and Registration of Bonds

(a) Bonds issued under this subchapter shall be submitted to the Attorney General of Texas for his approval in the same manner and with the same effect as provided for the approval of tax bonds issued by counties of the state.

(b) Bonds issued under this subchapter shall be registered by the Comptroller of Public Accounts of Texas as required for county tax bonds. (43rd Legis., 1st C.S., Ch. 111, Sec. 18b, as added.)

§ 60.117. Bonds as Investments

Bonds authorized and issued under this subchapter are legal and authorized investments for life insurance companies authorized to do business in Texas (43rd Legis., 1st C.S., Ch. 111, Sec. 18c, as added.)

§ 60.118. Board of Trustees of Grain Elevator

(a) A district which adopts plans for the construction of a grain elevator to be paid for by the issuance and sale of obligations payable from and secured by a pledge of revenue to be derived from the operation of the grain elevator and further secured by a trust indenture or deed of trust on the physical properties of the improvement may vest its management and control during the time the improvement is encumbered by the pledge of revenue or by the pledge of revenue and the lien on the physical properties, in a board of trustees named in the resolution or indenture.

(b) The board of trustees shall consist of not less than five nor more than nine members, and shall be entitled to receive the compensation fixed by the resolution or indenture, which shall not be more than one percent of the gross receipts of the grain elevator in any one year.

(c) The commission shall specify in the resolution or indenture:

- (1) the terms of office of the members of the board of trustees;
- (2) the powers and duties of the board, including the power to fix fees and charges for the use of the improvements;

- (3) the manner of exercising the powers and duties;
 - (4) the manner of selecting the successors of the board of trustees; and
 - (5) all matters relating to board members' duties and the organizing of the board.
- (d) The board of trustees may adopt bylaws regulating the procedure of the board and fixing the duties of its officers, but the bylaws may not contain any provision in conflict with the covenants and provisions contained in the resolution authorizing the bonds or in the indenture.
- (e) In all matters relating to powers, duties, obligations, and procedure of the board of trustees which are not covered in the resolution or indenture, the laws and rules governing the commission shall control, where applicable.
- (f) When the board is created by the resolution or indenture, it shall have all of the power and authority for the management and operation of any improvement which could be exercised by the commission.
- (g) By the terms of the resolution or indenture, the commission may make provision for later supplementation of the resolution or indenture to vest the management and control of the grain elevator in a board of trustees having the powers, rights, and duties conferred or imposed by this section. (43rd Legis., 1st C.S., Ch. 111, Sec. 7a, as added.)

§ 60.119. Covenants for Management and Operation of Improvements

(a) A resolution or order authorizing the issuance of obligations under this subchapter may include covenants with the holders of the obligations relating to:

- (1) the management and operation of the improvements and facilities;
 - (2) the collection of fees and charges for the use of the improvements and facilities;
 - (3) the disposition of the fees and charges;
 - (4) the issuance of future obligations and creation of future liens and encumbrances against the improvements, facilities, and the revenue from them; and
 - (5) other pertinent matters, as may be deemed necessary to insure the marketability of the obligations.
- (b) The covenants shall not be inconsistent with the provisions of this subchapter. (43rd Legis., 1st C.S., Ch. 111, Sec. 7.)

§ 60.120. Contracts, Leases, and Agreements Authorized

(a) A district acting under the provisions of this subchapter may enter into any contract, lease, or agreement necessary or convenient to carry out any of the powers granted in this subchapter. The contract, lease, or agreement may be entered into with any person and any government or governmental agency including the United States and the State of Texas.

(b) Any contract, lease, or agreement entered into under Subsection (a) of this section shall be approved by resolution of the commission and shall be executed by the chairman and attested by the secretary of the commission. (43rd Legis., 1st C.S., Ch. 111, Sec. 13.)

§ 60.121. Conversion of District

(a) If the commission of any district organized under Article III, Section 52, of the Texas Constitution, finds it expedient to convert the dis-

trict into a district operating under the provisions of Article XVI, Section 59, of the Texas Constitution, in order to utilize the provisions of this subchapter, the conversion may be accomplished as provided in Subchapter J of this chapter.

(b) All proceedings and hearings held in connection with a conversion shall be adopted and conducted by the commission of the district instead of by the navigation board of the district. (43rd Legis., 1st C.S., Ch. 111, Sec. 16.)

§ 60.122. Improvements not Payable From Taxes

(a) No district, in the operation, maintenance, or repair of any improvements or facilities acquired, purchased, or constructed under the provisions of this subchapter, shall incur any indebtedness or assume any liability or obligation payable out of taxes.

(b) Liabilities and obligations arising from these activities are payable solely out of the revenue from the improvements and facilities which may be applicable as authorized in this subchapter. (43rd Legis., 1st C.S., Ch. 111, Sec. 18.)

§ 60.123. Pilot and Pilotage Laws Unaffected

No provision of this subchapter may be construed to amend, repeal, or affect the laws relating to pilots and pilotage or their appointment and remuneration. (43rd Legis., 1st C.S., Ch. 111, Sec. 19.)

[Sections 60.124–60.150 reserved for expansion]

SUBCHAPTER F. CONTRACTS WITH THE UNITED STATES

Section 60.151. Purpose

It is the purpose and intent of this subchapter to confer on districts jointly or mutually interested in a navigation project which has been approved by the United States, either by Act of Congress or act of the secretary of defense, the fullest possible power of contract with regard to the project of common interest. (42nd Legis., 1st C.S., Ch. 12, Sec. 3.)

§ 60.152. Authority to Enter into Contract

(a) Two or more districts, all or parts of which are located in one county and which are interested in or may, in the judgment of the commission, be benefited by a navigation project approved by Act of Congress or by the secretary of defense, may enter into contracts with the United States and with each other to consummate the projects of common interest.

(b) The contract may provide for:

(1) the assumption of joint or joint and several liability for construction, completion, and consummation of the project;

(2) the acquisition of property in connection with the project;

(3) the lending and contribution of funds of the district to the United States or to any other district in support or in aid of the project; and

(4) the assumption of responsibility for valid obligations, incurred in furtherance of the common project, of the United States or of any district. (42nd Legis., 1st C.S., Ch. 12, Sec. 1.)

§ 60.153. Execution of Contracts

A contract entered into by a district under this subchapter shall be approved by resolution of the commission, executed by the presiding officer of the commission, and duly attested by the corporate seal of the district. (42nd Legis., 1st C.S., Ch. 12, Sec. 2.)

[Sections 60.154–60.170 reserved for expansion]

**SUBCHAPTER G. POWERS OF DISTRICT TO PROVIDE
IMPROVEMENTS WITHOUT TAXATION**

Section 60.171. Authority to Borrow Money and Encumber Property and Franchise

(a) A district organized under the provisions of the constitution or laws of this state and created for the development of deep water navigation may borrow money and may mortgage and encumber part or all of its properties and facilities, the franchise, revenue, and income from the operation of its properties and facilities and everything pertaining to its properties and facilities to secure the payment of funds to purchase, build, improve, enlarge, extend, or repair any of its wharves, docks, warehouses, levees, bulkheads, canals, waterways, or other aids to navigation.

(b) As additional security, the encumbrance may pledge the net income and revenue from the operation of properties and facilities of the district and may provide for a grant, to a purchaser under sale or foreclosure, of a franchise to operate, subject to all regulatory laws, the encumbered property and facilities for a term of not more than 20 years from the date of purchase. (47th Legis., Ch. 38, Sec. 1.)

§ 60.172. Notice of Hearing on Indebtedness

(a) When, for the purposes authorized by Section 60.171 of this code, a commission proposes to borrow money and mortgage and encumber any part or all of its properties, facilities, franchises, revenue, and income from the operation of its properties and facilities, the commission shall give notice of intention to authorize and issue the evidence of the indebtedness.

(b) The commission shall fix a time and place at which a public hearing concerning the proposed indebtedness shall be held. The date of the hearing shall be not less than 15 days nor more than 30 days from the date of the resolution of the commission giving the notice.

(c) Notice published by the commission under this section shall:

(1) include a statement of the amount and purpose of the proposed indebtedness;

(2) inform all persons of the time and place of hearing; and

(3) inform all persons of their right to appear at the hearing and contend for or protest the creation of the indebtedness.

(d) The secretary of the commission shall post copies of the notice for 10 days before the day of hearing in three public places in the district and at the door of each county courthouse located in the district.

(e) The notice also shall be published one time not less than five days before the day of the hearing in a newspaper of general circulation in the district. If a newspaper is not published in the district, the notice

shall be published in some newspaper published in any county situated in whole or in part within the district.

(f) The duties imposed on the secretary of the commission by this section may be performed by any commission member or the assistant secretary of the commission. (47th Legis., Ch. 38, Sec. 8.)

§ 60.173. Hearing on Indebtedness

(a) At the time and place set for the hearing or on a subsequent date, the commission shall hear and determine all matters concerning the proposed indebtedness, and the hearing may be adjourned from day to day and from time to time as the commission considers necessary.

(b) At the hearing, any person interested may appear before the commission in person or by attorney and contend for or protest the creation of the proposed indebtedness.

(c) The commission may adopt a resolution or order providing for the assumption of the proposed indebtedness and the issuance of the evidence of the indebtedness if at the hearing it is determined by the commission that the proposed improvements are necessary, feasible, practicable, and needed and will benefit the property in the district.

(d) The commission may, in respect to the issuance, sale, and delivery of securities evidencing the indebtedness, adopt all necessary resolutions, orders, certificates, and trust indentures. (47th Legis., Ch. 38, Sec. 9.)

§ 60.174. Issuance of Obligations

(a) The district may issue evidences of indebtedness secured by encumbrance which mature not more than 20 years after the date of issuance.

(b) The encumbrance and evidences of indebtedness shall include the clause: "The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation." (47th Legis., Ch. 38, Sec. 3.)

§ 60.175. Execution and Sale of Obligations

(a) Each note, warrant, or other security evidencing any indebtedness created under the provisions of this subchapter shall be signed by the chairman of the commission, countersigned by the secretary of the commission, and have the seal of the district impressed on it.

(b) Each note, warrant, or other security may be registered as to principal by the trustee named and designated by the commission in the trust indenture executed by the commission to secure payment of the obligation.

(c) The evidences of indebtedness may be sold by the commission on the best terms and for the best price possible. (47th Legis., Ch. 38, Sec. 10, 12.)

§ 60.176. Obligations as Charge on Encumbered Property and Facilities

(a) No obligation issued under Section 60.174 of this code shall be a debt of the district issuing the obligation but shall be solely a charge on the encumbered property and facilities.

(b) Revenue and income from the encumbered property and facilities of the district shall not be considered in determining the power of the

district to issue any bonds for any purpose authorized by law. (47th Legis., Ch. 38, Sec. 2.)

§ 60.177. Lien on Revenue; Foreclosure of Encumbrance

(a) If the revenue and income from the properties and facilities of the district are encumbered under the provisions of this subchapter, the expense of operation and maintenance necessary to render efficient service of the properties and facilities shall be a first lien and charge against the revenue and income. The first lien shall be prior to and superior to the lien of the encumbrance.

(b) No encumbrance shall be foreclosed because of default of the district until the default has existed for a period of 90 days and notice of the default has been served on the commission. (47th Legis., Ch. 38, Sec. 4.)

§ 60.178. Trustee to Enforce Foreclosure; Franchise Under Foreclosure

(a) The encumbrance may provide for a trustee to enforce foreclosure.

(b) In the event of foreclosure of an encumbrance created under this subchapter, the encumbrance may provide for the grant of a franchise to the purchaser under foreclosure to operate the properties encumbered for a period not to exceed 20 years from the date of default. The district shall have the option at any five-year period for 20 years after default to repurchase the properties on reasonable terms and at reasonable prices to be set forth in the encumbrance.

(c) The provisions of Sections 61.164–61.168 of this code, relating to the grant of franchises by districts, shall not apply to the grant of any franchises under authority of this section. (47th Legis., Ch. 38, Sec. 5, 11.)

§ 60.179. Borrowing for Current Expenses

The district may borrow funds and issue warrants to pay current expenses. The warrants issued shall be payable not later than the close of any calendar year for which loans are made and may not exceed in total the anticipated revenue of the district. (47th Legis., Ch. 38, Sec. 6.)

§ 60.180. Management and Control by Commission

The management and control of any property and facilities encumbered under the provisions of this subchapter shall, during the time of the encumbrance, be exercised by the commission. (47th Legis., Ch. 38, Sec. 7.)

§ 60.181. Proceedings to Borrow Money

(a) The commission shall supervise all proceedings to be taken and acts to be performed under this subchapter concerning the borrowing of money, the mortgaging and encumbering of properties and facilities, the franchise, revenue, and income from the operation of properties and facilities, and the issuance of evidences of indebtedness.

(b) The commissioners court of any county included in whole or in part inside the boundaries of a district and the navigation board established for a district shall not be required to take any action in connection with this subchapter, approve or ratify any proceedings taken by the commission, or approve or ratify any act performed by the commission. (47th Legis., Ch. 38, Sec. 13.)

[Sections 60.182–60.200 reserved for expansion]

**SUBCHAPTER H. PROMOTION AND DEVELOPMENT FUND
IN CERTAIN DISTRICTS****Section 60.201. Purpose**

Districts in this state which include cities of 100,000 or more inhabitants and which operate ports or waterways and harbor and terminal facilities are in keen competition with other ports, waterways, harbors, and terminals outside the state and with privately owned port and terminal facilities inside the state. Well-situated and well-equipped ports and waterways in other nearby states and owners of substantial port and terminal facilities located inside and outside the state are advertising, promoting and developing their competing ports, waterways, harbors, and terminals through expenditure of large amounts of money without any audit or restriction on expenditure of the money. This activity or expenditure is thwarting and impeding the use, progress, and development of the ports, waterways, harbors, and terminals of this state. Continuation of this hardship and injustice can best be met and coped with by more liberal use of some relatively small fund set aside from the gross income from operations of the ports of this state to be used in the manner provided in this subchapter. (51st Legis., Ch. 280, Sec. 1, as amended.)

§ 60.202. Creation of Fund

A district organized under general or special law and containing a city of 100,000 or more population, according to the last preceding federal census, may set aside out of current income from its operations a promotion and development fund of not more than five percent of its gross income from operations in each calendar year. (51st Legis., Ch. 280, Sec. 2, sen. 1, as amended.)

§ 60.203. Expenditure of Fund

Money in the promotion and development fund shall be spent by the commission or as the commission may direct to pay any expenses connected with:

- (1) any activity or matter incidental to the advertising, development, or promotion of the district or its ports, waterways, harbors, or terminals;
- (2) furthering the general welfare of the district and its facilities; or
- (3) the betterment of the district's relations with steamship and rail lines, shippers, consignees of freight, governmental officials, or others interested or sought to be interested in the ports, waterways, harbors, or terminals. (51st Legis., Ch. 280, Sec. 2, sen. 2, as amended.)

§ 60.204. Management and Control of Promotion and Development Fund

(a) The money in the promotion and development fund shall be kept separate from all other funds and accounts of the district, and no money collected from assessing or levying taxes may be mingled with the fund.

(b) The promotion and development fund shall be under the exclusive control of the commission, and the commission shall have full responsibility.

ity for auditing, approving, and safeguarding the expenditure of money from the fund.

(c) The county auditor shall exercise his usual supervision and control to assure that the commission sets aside no more than five percent of its gross income from operations in each calendar year in the promotion and development fund. The county auditor shall not audit disbursements from the fund but shall be entitled to a monthly statement showing the:

(1) date of each disbursement from the fund;

(2) amount disbursed;

(3) person or concern to whom disbursed; and

(4) general purpose of each disbursement. (51st Legis., Ch. 280, Sec. 3, as amended.)

§ 60.205. Other Expenses not Affected

Since this subchapter authorizes disbursements from the promotion and development fund for unusual purposes and occasions not covered by other law, the setting aside of the fund and disbursements from the fund shall not affect payment of other expenses customarily approved, audited, and paid out of the regular funds of the district. (51st Legis., Ch. 280, Sec. 4, as amended.)

[Sections 60.206–60.220 reserved for expansion]

SUBCHAPTER I. REVENUE BONDS

Section 60.221. Modification of Revenue Bond Resolution

If a district adopts a resolution for the issuance of revenue bonds, provision may be made in the resolution for its modification after the issuance of the bonds in the manner and with the consent of the holders of a fixed percentage of the bonds if provided in the resolution before the issuance of the bonds. (53rd Legis., Ch. 226, Sec. 1.)

[Sections 60.222–60.240 reserved for expansion]

SUBCHAPTER J. CONVERSION OF DISTRICTS

Section 60.241. Authority to Convert

Any district created under the provisions of Article III, Section 52, of the Texas Constitution may be converted into a district operating under Article XVI, Section 59, of the Texas Constitution, in the manner provided in this subchapter. (41st Legis., 1st C.S., Ch. 103, Sec. 1, sen. 1 (part).)

§ 60.242. Resolution

(a) The navigation board shall adopt a resolution declaring that in its judgment conversion to a district operating under Article XVI, Section 59, of the Texas Constitution will be in the best interest of the district and will be a benefit to the land and property located in the district.

(b) The resolution shall call a hearing and shall be entered in the minutes of the board. (41st Legis., 1st C.S., Ch. 103, Sec. 1, sen. 1 (part).)

§ 60.243. Notice of Resolution

(a) Notice of the resolution shall be given by publishing notice once a week for two consecutive weeks in a newspaper with general circulation in the county in which the district is located. The first publication shall appear not less than 14 full days before the time set for the hearing.

(b) The notice shall:

- (1) state the time and place of the hearing;
- (2) set out the entire resolution; and
- (3) notify interested persons to appear and offer testimony for or against the proposal. (41st Legis., 1st C.S., Ch. 103, Sec. 1, sen. 2, 3, 4.)

§ 60.244. Findings of Navigation Board

(a) After the hearing, if the navigation board finds that conversion to a district operating under Article XVI, Section 59, of the Texas Constitution, would be in the best interest of the district and would be a benefit to the land and property located in the district, it shall enter an order making these findings and the district shall become a district operating under Article XVI, Section 59, of the Texas Constitution.

(b) If the navigation board finds that conversion to a district operating under Article XVI, Section 59, of the Texas Constitution, would not be in the best interest of the district and would not be a benefit to the land and property located in the district, it shall enter an order making these findings.

(c) The findings of the navigation board are final and are not subject to appeal or review. (41st Legis., 1st C.S., Ch. 103, Sec. 1, sen. 5, 6, 7.)

§ 60.245. Status of Converted District

A district which is converted under the provisions of this subchapter shall be constituted a district operating under Article XVI, Section 59, of the Texas Constitution and shall be governed by the provisions of Chapter 62 of this code as if it had originally been organized under Article XVI, Section 59, of the Texas Constitution, except the commissioners of a converted district shall be appointed in the manner that initial commissioners are appointed under Sections 62.061 and 62.062 of this code. (41st Legis., 1st C.S., Ch. 103, Sec. 1, sen. 8.)

§ 60.246. Powers of Converted District

(a) Nothing in this subchapter shall be construed to deprive a converted district of any powers conferred on it by the law under which it was organized.

(b) A converted district shall have the additional powers conferred on districts under Sections 61.151, 61.161–61.168, 61.170, and 61.172–61.175 of this code, and the commissioners of a converted district shall constitute a pilot board under the provisions of Articles 8248–8257, Revised Civil Statutes of Texas, 1925.

(c) If there is a conflict between the powers conferred by Section 60.245 of this code and the powers preserved by Subsection (a) of this section, the powers conferred by Section 60.245 shall control. (41st Legis., 1st C.S., Ch. 103, Sec. 2.)

[Sections 60.247–60.270 reserved for expansion]

SUBCHAPTER K. DEPOSITORY

Section 60.271. Selection of Depository

(a) The commission shall select a depository for the district under the law providing for the selection of a county depository.

(b) The commission in selecting the depository shall act in the same capacity and perform the same duties as the county judge and the commissioners court in selecting a county depository. (R.S. Art. 8244, sen. 1, 2, as amended.)

§ 60.272. Depository Bond

The depository shall have all the powers and duties in the execution of a depository bond and in pledging of collateral in lieu of or in addition to a personal surety or surety company bond as provided by law for a county depository. (R.S. Art. 8244, sen. 3, as amended.)

§ 60.273. Treasurer's Bond

After the depository executes the bond and it is approved by the commission, the county treasurer shall be required to execute only such a bond as required by the commission. (R.S. Art. 8244, sen. 4, as amended.)

[Sections 60.274–60.300 reserved for expansion]

SUBCHAPTER L. REFUNDING BONDS

§ 60.301. Authority to Issue Refunding Bonds

The governing body of any district may refund the bonded indebtedness of the district without a vote of the electors of the district in the manner provided by law for counties, cities, and towns and may refund the bonded indebtedness owned by the State Board of Education in the manner provided for independent school districts incorporated for free school purposes only. (41st Legis., 1st C.S., Ch. 103, Sec. 6.)

CHAPTER 61. ARTICLE III, SECTION 52, NAVIGATION DISTRICTS

SUBCHAPTER A. GENERAL PROVISIONS

Section 61.001. Definitions

In this chapter:

(1) "District" means a navigation district created under Article III, Section 52, of the Texas Constitution.

(2) "Commission" means the navigation and canal commission of a district.

(3) "Board" means the navigation board.

(4) "Commissioners court" means the commissioners court of the county in which the district is located or the commissioners court of the county of jurisdiction.

(5) "Commissioner" means a member of the navigation and canal commission. (New.)

[Sections 61.002–61.020 reserved for expansion]

SUBCHAPTER B. CREATION OF DISTRICT**Section 61.021. Creation**

A navigation district may be created as provided in this chapter to operate under Article III, Section 52 of the Texas Constitution. (New.)

§ 61.022. Area Included in District

A district may include all or part of a village, town, or municipal corporation, but may not include more than all or parts of two counties. (R.S. Art. 8198, sen. 1.)

§ 61.023. District May Include Road District

On petition signed by a majority of the property taxpayers who reside in the special road district, a district which includes all or parts of two counties may include any special road district which has voted bonds to construct public roads. If the entire county which includes the road district is included in the district, this section does not apply. (R.S. Art. 8199.)

§ 61.024. Petition to Create Single-county District

(a) To create a district located wholly in one county, a petition, signed by 25 of the resident property taxpayers, or if there are fewer than 75 resident property taxpayers in the proposed district, then by one-third of them, shall be presented to the commissioners court of the county.

(b) The petition shall include:

- (1) a request for the establishment of a navigation district;
- (2) a description of the boundaries of the proposed district, accompanied by a map;
- (3) a statement of the general nature of the improvements proposed;
- (4) an estimate of the probable cost;
- (5) a request for the issuance of bonds and the levy of a tax to pay for the bonds; and
- (6) the designation of a name for the district which shall include the name of the county.

(c) An affidavit stating the qualifications of the petitioners shall accompany the petition. (R.S. Art. 8200, sen. 1, 2.)

§ 61.025. Petition to Create District in Two Counties

(a) If the proposed district is located in two counties, the petition shall be presented to the commissioners court of the county which includes the greater part of the district, and this county shall be the county of jurisdiction with relation to all matters concerning the district.

(b) The petition shall be signed by 25 resident property taxpayers in each county in the district or if there are fewer than 75 resident property taxpayers in either of the counties, then by one-third of the resident property taxpayers in that county.

(c) The name of the district shall include the name of the county which has jurisdiction. (R.S. Art. 8200, sen. 3.)

§ 61.026. Deposit

(a) The petition shall be accompanied by \$500 in cash, which shall be deposited with the clerk of the commissioners court.

(b) The money shall be held by the clerk until after the result of the election for the creation of the district has been declared and entered of record by the commissioners court.

(c) If the result of the election is in favor of the establishment of the district, the deposit shall be returned to the petitioners or their agent or attorney.

(d) If the result of the election is against the establishment of the district, the clerk shall pay out of the \$500, with vouchers signed by the county judge, all costs and expenses connected with the proposed district, including the election. Any balance shall be returned to the petitioners or their agents or attorney. (R.S. Art. 8201.)

§ 61.027. Hearing

(a) On presentation of the petition, the commissioners court shall order a hearing to be held at a regular or special term of the commissioners court.

(b) The hearing shall be held not less than 30 days nor more than 60 days from the date the petition is presented. (R.S. Art. 8202, sen. 1 (part).)

§ 61.028. Notice of Hearing

(a) The commissioners court shall order the clerk to give notice of the date and place of the hearing by posting a copy of the petition and the order of the commissioners court at the courthouse door and at four other public places within the boundaries of the proposed district.

(b) The notices shall be posted not less than 20 days immediately preceding the time set for the hearing.

(c) If the district is composed of more than one county, the notices shall be posted in each county.

(d) The clerk is entitled to receive \$1 for each notice he posts and five cents a mile for each mile traveled to post the notices. (R.S. Art. 8202, sen. 1 (part), 2, 3.)

§ 61.029. Hearing by Board

(a) If the proposed district includes all or part of a city acting under special charter granted by the legislature, the hearing shall be held at the regular meeting place of the commissioners court before a board.

(b) The board shall include the county judge and the members of the commissioners court and the mayor and the aldermen or commissioners of the city or cities.

(c) The board shall pass on the petition with each individual member having one vote.

(d) A majority in number of the persons composing the board shall constitute a quorum, and the action of the quorum shall control.

(e) The hearing shall be held and notice shall be given as provided in Sections 61.027–61.028 of this code.

(f) The clerk shall record the proceedings of the board in the book kept for that purpose, and this record shall be available for public inspection. (R.S. Art. 8203.)

§ 61.030. Conduct of Hearing

(a) The commissioners court or the board has exclusive jurisdiction to hear and determine all contests and objections to the creation of the proposed district, all matters relating to the creation of the proposed district, and all subsequent proceedings of the proposed district after it is organized.

(b) The commissioners court or the board may adjourn the hearing from day to day, and all judgments or decisions rendered by it shall be final unless otherwise provided in this chapter.

(c) Any person who might be affected by creation of the district may appear at the hearing and support or oppose creation of the proposed district and may offer testimony relating to:

- (1) the necessity and feasibility of the proposed district;
- (2) the benefits to accrue from formation of the proposed district;
- (3) the boundaries of the proposed district; or
- (4) any other matter concerning the proposed district. (R.S. Art. 8204.)

§ 61.031. Findings

(a) If it appears at the hearing that the proposed improvements are feasible and practicable and would be a public benefit and utility, the commissioners court or the board shall make these findings and approve the boundaries stated in the petition or make changes in the boundaries.

(b) Changes may not be made in the proposed boundaries until notice is given and a hearing held in the manner provided in Sections 61.027-61.030 of this code.

(c) If the commissioners court or board is unable to make the findings under Subsection (a) of this section, it shall dismiss the petition at the cost of the petitioners. Dismissal of the petition shall not prevent presentation of other petitions at a later date.

(d) The commissioners court or the board shall enter all findings in its records. (R.S. Art. 8205, sen. 1, 2, 3 (part).)

§ 61.032. Providing Funds for Proposed Improvements

(a) If the commissioners court or the board approves the boundaries in the petition or as changed and decides to grant the petition, it shall determine the amount of money necessary for the improvements and all expenses connected with the improvements and whether to issue bonds for the full amount or, in the first instance, for a less amount.

(b) The commissioners court or the board shall specify the amount, term, and rate of interest of bonds to be issued. (R.S. Art. 8205, sen. 3 (part).)

§ 61.033. Election Order

(a) If the commissioners court or the board finds in favor of the establishment of the district and the issuance of bonds and levy of a tax, the commissioners court shall order an election to vote on the proposition.

(b) The election order shall specify the amount of the bonds to be issued, their maturity dates, and the rate of interest. (R.S. Art. 8206.)

§ 61.034. Elections

(a) When an election is held under this chapter, notice shall be posted for 30 days before the election in the manner provided for posting notice. The notice shall include:

- (1) the time and place of the election;
- (2) the proposition;
- (3) the purpose of the election; and
- (4) a copy of the election order. (R.S. Art. 8259.)

(b) Unless otherwise provided, a two-thirds vote is necessary to carry a proposition submitted at an election. (R.S. Art. 8260, sen. 1.)

(c) The commissioners court shall create and define, by order, the voting precincts in the district and shall name convenient polling places in the precincts. It shall appoint necessary election officials and shall hold elections at the earliest legal time. (R.S. Art. 8260, sen. 2, 3.)

(d) After canvassing the returns of an election, if the commissioners court finds that the proposition has carried, it shall declare the result and enter it in the minutes as provided in this chapter. (R.S. Art. 8262.)

§ 61.035. Ballots

The ballots for the election shall be printed to provide for voting for or against the proposition: "The creation of a navigation district and the issuance of bonds and the levy of a tax to pay for the bonds." (R.S. Art. 8207.)

§ 61.036. Declaration of Result

If the proposition carries at the election, the commissioners court shall enter the following declaration in its minutes:

"Commissioners Court of _____ County, Texas, _____ term A.D. _____: In the matter of the petition of _____ and _____ others requesting the establishment of a navigation district and the issuance of bonds and the levy of taxes in the petition described and designated by the name of _____ Navigation District. Be it known that at an election called for that purpose in the district, held on the _____ day of _____ A.D. _____, a two-thirds majority of the electors voting on the proposition voted in favor of the creation of the navigation district, and the issuance of bonds and the levy of a tax. Now, therefore, it is considered and ordered by the court that the navigation district be and the same is hereby established by the name of _____ Navigation District, and that the bonds of the district in the amount of \$_____ be issued, and a tax of _____ cents on the \$100 valuation or so much thereof as may be necessary to be levied on all property inside the navigation district sufficient in amount to pay the interest on the bonds and provide a sinking fund to redeem them at maturity, and that if the tax becomes insufficient for these purposes, it shall be increased until it is sufficient. The metes and bounds of the district shall be as follows: (Description of metes and bounds.)" (R.S. Art. 8208.)

[Sections 61.037–61.070 reserved for expansion]

SUBCHAPTER C. ADMINISTRATIVE PROVISIONS**Section 61.071. Appointment of Commissioners**

After a district is created, the commissioners court or the board, by majority vote, shall biennially appoint three commissioners to the commission. (R.S. Art. 8209, sen. 1 (part).)

§ 61.072. Organization: Quorum

The commission shall organize by electing one of their number chairman and one secretary. Two of the commissioners shall constitute a quorum, and a concurrence of two shall be sufficient in all matters relating to the business of the district. (R.S. Art. 8212.)

§ 61.073. Qualifications

To be qualified for appointment as a commissioner, a person must be a resident of the district, a freehold property taxpayer, and a qualified elector of the county. (R.S. Art. 8209, sen. 1 (part).)

§ 61.074. Term of Office, Removal, and Succession

(a) Each commissioner shall hold office for two years and until his successor has qualified, unless sooner removed by a majority vote of the commissioners court or the board for malfeasance or nonfeasance in office.

(b) All vacancies in the office of commissioner shall be filled for the unexpired term in the manner provided for the original appointment to the office. (R.S. Art. 8209, sen. 3, 4.)

§ 61.075. Commissioner's Oath

Each commissioner shall subscribe an oath before the county judge of the county of jurisdiction to discharge faithfully the duties of his office without favor or partiality, and to render a true account of his activities to the commissioners court or the board which appointed him. The oath shall be filed by the clerk and preserved as a part of the records of the district. (R.S. Art. 8210.)

§ 61.076. Commissioner's Bond

Each commissioner shall execute a good bond for \$1,000, payable to the county judge for the use and benefit of the district and conditioned on the faithful performance of his duties. (R.S. Art. 8211.)

§ 61.077. Commissioners' Compensation

The commissioners are entitled to receive for their services compensation fixed by the commissioners court and entered in the record. (R.S. Art. 8209, sen. 2.)

§ 61.078. District Treasurer

The county treasurer of the county of jurisdiction shall be treasurer of the district. (R.S. Art. 8220, sen. 1 (part).)

§ 61.079. District Treasurer's Bond

(a) Before receiving the proceeds of any district bonds and before receiving any district funds from any source, the district treasurer shall execute a good and sufficient bond payable to the commission for the benefit of the district. The bond shall be in an amount fixed and approved by the commission.

(b) The bond shall be conditioned on the district treasurer's faithfully executing the duties of his office, paying over all money that comes into his hands as the treasurer, and rendering a just account to the commissioners court or the commission when required to do so.

(c) The bond required by this section shall remain in full force and effect as long as any funds belonging to the district are in the possession or under the control of the treasurer. (R.S. Art. 8221, sen. 1, 2, as amended.)

§ 61.080. District Treasurer's Compensation

The district treasurer shall be entitled to receive for his services an amount fixed by the commission. (R.S. Art. 8221, sen. 3, as amended.)

§ 61.081. Duties Imposed without Compensation

The duties and powers conferred on county, city and other officers under this chapter are a part of the legal duty of the officers which they shall perform without additional compensation, unless otherwise provided in this chapter. (R.S. Art. 8263.)

§ 61.082. Court Actions

(a) The district, by and through its commission, may sue and be sued in any court in this state in the name of the district.

(b) The courts of this state shall take judicial notice of the establishment of the district. (R.S. Art. 8228.)

[Sections 61.083–61.110 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES

Section 61.111. Purposes of District

A district may:

- (1) improve rivers, bays, creeks, streams, and canals inside or adjacent to the district;
- (2) construct and maintain canals and waterways to permit or aid navigation; and
- (3) issue bonds to pay for these improvements. (R.S. Art. 8198, sen. 2.)

§ 61.112. Employees and Counsel

(a) The commission may employ assistant engineers and other employees which are necessary and may determine their compensation.

(b) The commission may retain counsel to represent the district in the preparation of contracts or in the conduct of any proceedings in or out of court and to be the legal advisor of the commission on terms and for fees agreed on by the parties. (R.S. Art. 8227.)

§ 61.113. Authority to Go on Land

The commissioners and engineers, together with all necessary teams, help, tools and instruments, may go on any land located inside the district for the purpose of examining the land and making plans, surveys, maps, and profiles, without subjecting themselves to the laws of trespass. (P.C. Art. 851, sen. 1.)

§ 61.114. Penalty for Prohibiting Entry to Land

Any person who wilfully prevents or prohibits any officer listed in Section 61.113 of this code from entering land for the purposes stated in that section on conviction shall be punished by a fine of not more than \$25 a day for each day he prevents or prohibits the officer from entering the land. (P.C. Art. 851, sen. 2.)

§ 61.115. Acquisition of Property

The commission may acquire by gift, grant, purchase, or condemnation any necessary rights-of-way and property for necessary improvements contemplated by the district. (R.S. Art. 8225, sen. 1, as amended.)

§ 61.116. Acquisition of State Land and Flats

(a) Any district organized under this chapter or any general law under which navigation districts may be created may purchase from the State of Texas any land and flats belonging to the state which are covered or partly covered by the water of any of the bays or arms of the sea.

(b) These areas shall be used by the district for the purposes authorized, and the district may dredge or fill in and reclaim the land or improve it in other ways.

(c) The Commissioner of the General Land Office shall sell the land on application at the price of \$1 an acre.

(d) The commission shall file an application with the Commissioner of the General Land Office which shall describe the land sought to be purchased. The application shall be accompanied by a payment of \$1 in cash for each acre of land included in the application.

(e) If the Commissioner of the General Land Office is satisfied that the applicant is a properly created navigation district, a patent shall be issued to the navigation district conveying to the district the right, title, and interest of the state in the land described in the application.

(f) The funds derived from the sale shall be paid to the proper funds of the state by the Commissioner of the General Land Office. (R.S. Art. 8225, sen. 2, 3, 4, 5, as amended.)

§ 61.117. Limitations on Sales of State Land and Flats

(a) The State of Texas shall retain its rights in all mines and minerals, including oil and gas, in and under the land, together with the right to enter the land for the purpose of development when it sells land under Section 61.116 of this code.

(b) All sales of land under Section 61.116 are subject to oil, gas, or mineral leases in existence at the time of the sale.

(c) Any land which has been franchised or leased or is being used by any navigation district or by the United States for the purpose of navigation, industry, or any other purpose incident to the operation of a port shall not be entered or possessed by the State of Texas or by anyone

claiming under the State of Texas for the purpose of exploring for oil, gas, or other minerals except by directional drilling.

(d) No surface drilling location may be nearer than 660 feet and special permission from the Commissioner of the General Land Office is necessary to make any surface location nearer than 2,160 feet, measured at right angles from the nearest bulkhead line designated by a navigation district or the United States as the bulkhead line or from the nearest dredged bottom edge of any channel, slip, or turning basin which has been dredged, or which has been authorized by the United States as a federal project for future construction, whichever is nearer. (R.S. Art. 8225, sen. 6, 7, as amended.)

§ 61.118. Construction Contracts

(a) Except as provided in this section, the provisions of Chapter 3, Title 128, Revised Civil Statutes of Texas, 1925, governing water control and preservation districts which relate to advertising for, awarding, and performing contracts for the construction of improvements and work authorized by law shall apply to construction contracts made under this subchapter.

(b) The bidder's deposit for a construction contract shall be five percent of the amount bid, and the contractor's bond shall be for not less than 25 percent of the contract price.

(c) The contract shall be signed by at least two of the commissioners, and the partial payments made under the contract shall not be more than 90 percent of the contract price.

(d) In case of public calamity or extreme emergency which makes it necessary to act at once to preserve the property of the district and its residents or in case of unforeseen damage to the property or equipment of the district, the provisions of this section requiring advertisement for bids under Article 7853, Revised Civil Statutes of Texas, 1925, may be waived. In any of these situations, the commission shall record in the minutes of the district that an emergency exists and the facts which gave rise to the emergency. (R.S. Art. 8224, sen. 1 (part), 2, 3, as amended.)

§ 61.119. Interest in Contract of Navigation District

If the county judge, a county commissioner, a member of the board or the commission, or the engineer shall directly or indirectly become interested in a contract for work to be done by the district or in any fee paid by the district, which would allow him to receive any money consideration or other thing of value except in payment of services as provided by law, on conviction he shall be confined in jail for not less than six months nor more than one year. (P.C. Art. 374.)

§ 61.120. Laws Governing Certain Functions of District

Chapter 3, Title 128, Revised Civil Statutes of Texas, 1925, relating to eminent domain, employment and duties of the district engineer, cooperation with the federal government, and the director's annual report shall apply to this chapter. (R.S. Art. 8224, sen. 4, as amended.)

[Sections 61.121–61.150 reserved for expansion]

SUBCHAPTER E. PORT FACILITIES

Section 61.151. Authority to Operate and Develop Port Facilities

(a) A district created for the development of deep-water navigation which includes a city with a population of more than 100,000, according to the last preceding federal census, may operate and develop ports and waterways inside the district and extending to the Gulf of Mexico.

(b) The district may acquire, purchase, take over, construct, maintain, operate, develop, and regulate wharves, docks, warehouses, grain elevators, bunkering facilities, belt railroads, floating plants, lighterage, land, towing facilities, and other facilities or aids incident to or necessary to the operation or development of ports and waterways. (R.S. Art. 8229, sen. 1 (part), as amended.)

§ 61.152. Petition

(a) If the board decides to exercise the rights, powers, and authority provided in this subchapter, it shall certify this desire to the commissioners court and shall submit a petition requesting that an election be held.

(b) The commissioners court shall schedule a hearing on the petition not less than 30 nor more than 60 days after the date of the petition. The hearing may be held at any place designated by the commissioners court. (R.S. Art. 8230.)

§ 61.153. Hearing: Testimony

Any person who may be affected may appear before the board on the day of the hearing and contest the necessity, advisability, or practicability of the election and may offer testimony in favor of or against the election. (R.S. Art. 8231.)

§ 61.154. Election Order

After the hearing, if the board determines that the election should be held, the commissioners court shall order an election to determine whether or not the district should adopt the rights, powers, and authority provided in this subchapter. The order shall include the date on which the election will be held. (R.S. Art. 8232.)

§ 61.155. Ballots

The ballots for the election shall be printed to provide for voting for or against the following proposition: "The development of the port by the navigation district." (R.S. Art. 8233, sen. 1.)

§ 61.156. Election Expense

The district shall pay the expense of the election. (R.S. Art. 8233, sen. 2.)

§ 61.157. Declaration of Results

If the result of the election favors the development of a port by the district, the commissioners court shall declare the result and shall enter in the minutes of the commissioners court the following declaration:

"Commissioners Court _____ County, Texas, _____ term A.D. _____ in the matter of the petition of the navigation board, requesting

that the right, power, and authority be granted to the navigation district to develop the port of _____ (enter the name of the municipality). Be It Known, that at an election called for that purpose in the district, held on the _____ day of _____ A.D. _____, a two-thirds majority of the electors voting on the proposition voted to develop port facilities.

"Now, Therefore, It is considered and ordered by the commissioners court that the district is authorized to proceed with the development of the port as authorized by law." (R.S. Art. 8234.)

§ 61.158. Appointment of Commissioners

(a) If the provisions of this subchapter are adopted by a district, the district shall be managed, governed, and controlled by a commission composed of five commissioners, who shall be subject to the supervision and control of the board.

(b) Two of the commissioners shall be appointed by a majority of the city council of the municipality having a population of 100,000 or more, and two of the commissioners shall be appointed by a majority of the commissioners court.

(c) The chairman of the commission shall be the fifth member and shall be elected by majority vote of the city council and commissioners court meeting in joint session called by the county judge. (R.S. Art. 8235, sen. 1 (part), 4.)

§ 61.159. Term of Office: Removal: Succession

(a) Except for the original appointments, each commissioner shall serve for a term of two years and until his successor is qualified.

(b) One of the original appointees of the city council and one of the commissioners court shall serve for one year. The other original appointees shall serve for two years.

(c) Each commissioner shall serve his full term unless removed by the authority which appointed him. He may be removed for malfeasance, nonfeasance in office, inefficiency, or other sufficient cause.

(d) If a vacancy occurs through death, resignation, or other reason, the vacancy shall be filled in the manner provided for making the original appointment. (R.S. Art. 8235, sen. 1 (part), 2, 3, 8, 9, 10.)

§ 61.160. Qualifications; Compensation; Authority

(a) Each commissioner shall be a freehold property taxpayer and a qualified elector in the district.

(b) Each commissioner shall execute a bond and shall subscribe the required oath.

(c) Each commissioner is entitled to receive the compensation provided by the board.

(d) A majority of the commissioners shall have the authority to act, and all acts of the commission are subject to the supervision of the board. (R.S. Art. 8235, sen. 5, 6, 7, 10.)

§ 61.161. Eminent Domain

(a) The district may exercise the power of eminent domain.

(b) A district created under this chapter may elect to take advantage of the condemnation procedure provided in Subchapter F of Chapter 51 of this code. (R.S. Art. 8238, sen. 1 (part), as amended; 39th Legis., G.L., Ch. 25, Sec. 126, sen. 100, as amended.)

§ 61.162. Lease and Rental of Facilities

A district may acquire and take over, by lease or rental agreements, for a period of not less than 25 years, the docks, wharves, buildings, railroads, land, improvements, and other facilities already provided, constructed, or owned by any incorporated municipality situated within the district only with the consent of the lawful authorities of the municipality and on terms mutually agreed on by the district and the municipality.

(1) No agreement for the use, acquisition, or operation of the property or facilities of the municipality by the district shall be for a lease or rental value which is more than the annual net revenue derived or to be derived by the district after payment of the expenses of operation and maintenance of the property and facilities.

(2) The district shall have no supervision or control over the property or facilities owned, controlled, or constructed by the municipality until agreement for the lease and rental of the property by the district has been made.

(3) A district that is leasing land or facilities from a municipality may purchase or acquire the property in the manner provided in this subchapter.

(4) The commission and the officials of the municipality shall be authorized to enter into an agreement stating the land and facilities to be acquired, the amount agreed on as the purchase price, and the terms of the sale. (R.S. Art. 8238, sen. 1 (part), 2, 3, 4, 5, as amended.)

§ 61.163. Unimproved Land

(a) A district which acquires, leases, or takes over unimproved land owned or controlled by any incorporated municipality, may pay for the use, rental, or hire of the land a price or rental value to be fixed by the commission.

(b) If the commission fails or is unable to agree on terms and conditions for the use and rental of the unimproved land, then the district, through the power of eminent domain, may condemn the land or parts of the land which it thinks the interest of the district requires. (R.S. Art. 8239.)

§ 61.164. Franchises

(a) The district may grant franchises to persons or corporations on property owned or controlled by the district if the franchises are granted for purposes consistent with the provisions of this subchapter.

(b) No franchise shall be granted for a longer period than 30 years nor shall a franchise be granted except on the affirmative vote of at least three commissioners at three separate meetings of the commission which meetings may not be closer together than one week.

(c) No franchise shall be granted until after the franchise in its final form is published in full at the expense of the applicant, once a week for three consecutive weeks in a daily newspaper of general circulation published inside the district.

(d) The franchise shall require the grantee to file his or their written acceptance within 30 days after the franchise is finally approved.

(e) Nothing in this section shall be construed as preventing the district from granting revocable licenses or permits for the use of limited portions of waterfront or facilities for purposes consistent with this chapter. (R.S. Art. 8240.)

§ 61.165. Franchise Election

If the commission determines that a proposed franchise should be submitted to a vote of the people, it shall so certify to the commissioners court, and the commissioners court shall order an election on the matter at the earliest legal time. (R.S. Art. 8241.)

§ 61.166. Ballots

(a) The ballot shall explain the nature of the franchise sufficiently to identify it.

(b) The ballots shall be printed to provide for voting for or against the following proposition: "The franchise." (R.S. Art. 8242, sen. 1.)

§ 61.167. Election Result

If at the election a majority of those voting approve the franchise, it shall be granted. If those voting do not approve the franchise, it shall have no force and effect. (R.S. Art. 8242, sen. 2.)

§ 61.168. Petition Protesting Franchise

The franchise may be suspended from taking effect if, before the date when the franchise is granted, a petition signed by qualified voters of the district equal to 10 percent of the total vote cast in the last general election for state officers is presented to the commissioners court protesting the enactment or granting of the franchise. Immediately after the petition is filed, the commissioners court shall order an election on the proposed franchise. The election shall be governed by the provisions of Sections 61.164 and 61.165. (R.S. Art. 8243.)

§ 61.169. Contracts

The provisions governing the award of contracts by districts shall apply in all cases consistent with the provisions of this subchapter except that in case of emergency contracts may be let by the commission for not more than \$1,000 without advertisement for bids. In case of urgent necessity or present calamity, advertisement for bids may be waived. (R.S. Art. 8246.)

§ 61.170. Authority to Incur Debt

(a) The district may issue bonds for the purposes stated in Section 61.151 of this code and for the purpose of

- (1) acquiring necessary land, rights-of-way, or dumping grounds;
- (2) extension or improvement of belt railway lines; or
- (3) construction of improvements, wharves, docks, or other facilities or aids to navigation.

(b) The obligations may be secured by liens on the property acquired, constructed, or improved. Available revenue may be pledged as additional security.

(c) The district may borrow funds for current expenses and may evidence the debt by warrants payable not later than the close of any calendar year for which the loans are made. The warrants shall never exceed the anticipated revenue. (R.S. Art. 8229, sen. 1 (part), 2.)

§ 61.171. Bonds

(a) On compliance with the provisions of this subchapter the district may issue bonds to pay for the improvements and facilities and to acquire the property authorized in this subchapter.

(b) The district also may issue bonds to purchase wharves, docks, warehouses, bunkering facilities, belt railroads, land to be used for port purposes and development, or other facilities constructed or owned by the municipality.

(c) An election shall be held to approve the issuance of the bonds, and the bonds shall be issued in the manner provided by this chapter for issuing other bonds.

(d) The outstanding bonds and the additional bonds may not amount to more than 10 percent of the assessed value of real property in the district as shown by the last annual assessment made for the county and state. (R.S. Art. 8236, as amended.)

§ 61.172. Financing Purchases

(a) The commission may have issued in the manner provided in this chapter bonds of the district in an amount that represents the purchase price of the land or facilities less any outstanding bonds previously issued by the municipality.

(b) The bonds shall be issued, registered, and sold in the same manner as other bonds of the district, and the proceeds shall be paid to the municipality.

(c) If the municipality has outstanding bonds, the district shall assume payment of these bonds and interest, and the commissioners court shall levy a tax sufficient to pay the interest due and the principal due at the maturity of the bonds. The taxes shall be collected as other taxes are now collected, and payment shall be made to the city by the commission on or before the due dates of interest and principal for the sole purpose of paying the interest on and principal of the outstanding bonds.

(d) The municipality shall not be released from any obligation to the owners and holders of any outstanding bonds issued on account of the land or facilities purchased.

(e) The municipality shall not levy, assess, and collect any tax for interest and sinking fund unless the payment from the district shall fail in whole or in part. In the event of such failure, the municipality shall levy and collect the tax necessary to discharge the interest and meet the principal of the outstanding bonds and shall continue to do so until the amounts are paid. Also, the municipality may collect any and all amounts paid on account of the district from the district and in event of the continued failure to make the payments by the district, the municipality may take back the facilities. (R.S. Art. 8238, sen. 6, 7, 8, 9, 10, 11, as amended.)

§ 61.173. Election on the Purchase of Facilities

(a) No bonds shall be issued or tax levied until the question of purchase of the facilities is submitted to a vote of the people in the district.

(b) In addition to the requirement for submitting bonds to a vote, the notice of election shall include:

- (1) a copy of the agreement;
- (2) the amount of outstanding bonds;

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- (3) the amount of bonds sought to be issued by the district; and
- (4) the amount of taxes required to be levied.

(c) The election shall be called and held in the same manner as other elections for bonds, and the ballots shall provide for voting for or against the proposition: "The purchase of municipal facilities and the issuance of bonds and levy of a tax to pay for the bonds."

(d) If the election should carry by a two-thirds vote of the electors voting at the election, then the proposition shall be declared carried and the bonds shall be issued and sold, and the necessary taxes levied in accordance with the provisions of this subchapter. (R.S. Art. 8238, sen. 12, 13, 14, 15, 16, 17.)

§ 61.174. Employees; County Auditor, Duties and Compensation

(a) The commission may employ all persons necessary for the construction, maintenance, operation, and development of the business and facilities of the district and may prescribe their duties and fix their compensation.

(b) The county auditor, as auditor for the district having large port facilities, shall make such additional reports and perform such accounting services in addition to those now required by law as may be reasonably incident to the proper conduct of the business of the district.

(c) Compensation for the county auditor who shall act under this section shall be determined by the judge of the district court or courts having jurisdiction in the county after a hearing with respect to the amount and value of the services performed. The amount shall be paid monthly from funds of the navigation district, and the maximum amount which may be allowed by the district judge for the services shall not be more than the amount now being paid. (R.S. Art. 8245, as amended.)

§ 61.175. Powers

(a) A district operating under this subchapter shall have all the rights, powers, and authority granted by this chapter and shall have all the authority granted by general or special law to navigation districts.

(b) A district operating under this subchapter shall also have the fullest powers consistent with the state constitution for the regulation of wharfage and of all facilities relating to the port, waterways, and district.

(c) The district may assess and collect charges for the use of all facilities acquired or constructed in accordance with the provisions of this subchapter. (R.S. Art. 8237.)

§ 61.176. City Police Powers

Nothing in this subchapter shall repeal or affect the police powers of any municipality inside the district, or any law, ordinance, or regulation authorizing and empowering the municipality to exercise the powers relating to any navigable stream or aids to navigation and facilities in a navigation district, not in conflict with this subchapter. (R.S. Art. 8247.)

[Sections 61.177–61.210 reserved for expansion]

SUBCHAPTER F. GENERAL FISCAL PROVISIONS**Section 61.211. Maintenance Fund**

(a) After the district is created all expenses necessarily incurred after the petition was filed in connection with the creation, establishment, and maintenance of the district shall be paid out of the construction and maintenance fund of the district.

(b) The fund shall consist of all money received from the sale of bonds and all other amounts received by the district from any source, except tax collections applied to the sinking fund and payment of interest on the navigation bonds. (R.S. Art. 8219.)

§ 61.212. District Depository

(a) Within 30 days after the commissioners are appointed, the commission shall select a depository for the district in the manner provided by law for the selection of a county depository.

(b) The depository selected by the commission shall serve as the depository for the district for two years and until its successor is selected and has qualified. (R.S. Art. 8221, sen. 5, as amended.)

§ 61.213. District Treasurer's Duties

(a) The district treasurer shall keep an account of all money received by him for the district and paid out on behalf of the district.

(b) The district treasurer shall not pay out any money except on a voucher signed by the chairman of the commission or two of the commissioners or by the commissioners court.

(c) The district treasurer shall preserve in the files all orders for payment of money and shall submit a correct account to the commission or the commissioners court of all matters relating to the financial condition of the district on their request. (R.S. Art. 8220, sen. 1 (part), 2.)

[Sections 61.214–61.230 reserved for expansion]

SUBCHAPTER G. BOND AND TAX PROVISIONS**Section 61.231. Issuance of Bonds**

When the commission determines the cost of the proposed improvements, the expenses incident to the improvements, and the cost of maintenance of the improvements, it shall certify to the commissioners court the amount of bonds necessary to be issued. The commissioners court, at a regular or special meeting, shall issue an order directing the issuance of bonds for the district in the amount certified which shall not be more than the amount authorized by the election. (R.S. Art. 8213.)

§ 61.232. Limitation on Bond Issue

Outstanding bonds and additional bonds which are authorized may not be more than one-fourth of the assessed value of the real property in the district, as shown by the last annual assessment of real property made for state and county taxation. (R.S. Art. 8215.)

§ 61.233. Requisites of Bonds

(a) All bonds issued under the provisions of this subchapter shall be issued in the name of the district, signed by the county judge, and attested by the county clerk under the seal of the commissioners court.

(b) The bonds shall be issued in such denominations and payable at such time or times, not more than 40 years from their date, as the commissioners court considers expedient.

(c) All provisions of Chapter 57 of this code governing the approval, registration, and validity of bonds of levee improvement districts shall apply to bonds issued under this subchapter.

(d) The commissioners court or the board shall require a record to be kept of the bonds by the district treasurer the same as for bonds of levee improvement districts. (R.S. Art. 8216.)

§ 61.234. Sale of Bonds

(a) After the bonds are registered, the chairman of the commission shall offer them for sale and shall sell the bonds for the best price possible.

(b) Money received from the sale of the bonds shall be paid immediately to the district treasurer, and he shall deposit it to the credit of the district. (R.S. Art. 8217.)

§ 61.235. Chairman's Bond

Before the chairman of the commission may sell the bonds, he shall execute a good bond, payable to the county judge and his successors, in an amount fixed by the commission, conditioned on the faithful discharge of his duties. The bond shall be approved by the county judge. (R.S. Art. 8218.)

§ 61.236. Tax Levy

(a) When bonds have been approved, the commissioners court annually shall levy and have assessed and collected improvement taxes sufficient to pay the interest on the bonds and to provide a sinking fund to redeem the bonds at maturity.

(b) The commissioners court shall also at the time of the levy of taxes for county purposes, levy and have assessed and collected for the maintenance, operation, and upkeep of the district and its improvements an annual tax of not more than 10 cents on each \$100 valuation.

(c) The commission shall determine a rate within the 10-cent limit as the necessary amount for the maintenance, operation, and upkeep of the district and its improvements. The rate shall be certified to the commissioners court by the commission.

(d) Taxes shall be levied on all property inside the district. (R.S. Art. 8222, as amended.)

§ 61.237. Collection of Taxes

On order of the commissioners court, the tax assessor and collector of each county in the district shall assess and collect district taxes and pay the taxes to the district treasurer, in the manner provided in Chapter 3, Title 128, Revised Civil Statutes of Texas, 1925. The provisions of Chapter 3 relating to taxation, except the levy of maintenance taxes, creation and investment of sinking fund, and the liability of the commissioners

court for failure to order the assessment shall apply. (R.S. Art. 8224, sen. 1 (part).)

§ 61.238. Additional Bond Issue

(a) If the proceeds of the original bonds are insufficient to complete the proposed improvements or construction, or if the commission decides to undertake further construction or improvements or requires additional funds with which to maintain the existing improvements, it shall certify to the commissioners court the necessity for an additional bond issue, stating:

- (1) the amount required;
- (2) the purpose of the additional bonds;
- (3) the rate of interest on the bonds; and
- (4) the term of the bonds.

(b) The commissioners court, on receipt of this information, shall issue the bonds, unless the amount previously authorized has been exhausted, in which case the commissioners court shall first order an election on the issuance of the bonds to be held inside the district at the earliest possible legal time.

(c) The ballots for the issuance of additional bonds shall be printed to provide for voting for or against the proposition: "The issuance of bonds and the levy of a tax to pay for the bonds." (R.S. Art. 8214.)

§ 61.239. Sinking Fund Investments

The commissioners court may invest the sinking fund in county, municipal, district, or other bonds approved by the attorney general. (R.S. Art. 8223.)

**CHAPTER 62. ARTICLE XVI, SECTION 59,
NAVIGATION DISTRICTS**

SUBCHAPTER A. GENERAL PROVISIONS

Section 62.001. Definitions

As used in this chapter:

- (1) "District" means a navigation district operating under the provisions of Article XVI, Section 59, of the Texas Constitution.
 - (2) "Commission" means the navigation and canal commission.
 - (3) "Commissioner" means a navigation and canal commissioner.
 - (4) "Board" means the navigation board.
 - (5) "County of jurisdiction" means the county in which the district or the greater amount of acreage of the district is located.
- (New.)

[Sections 62.002–62.020 reserved for expansion]

SUBCHAPTER B. CREATION OF DISTRICT

Section 62.021. Creation of District

A navigation district may be created in the manner prescribed by this subchapter under Article XVI, Section 59, of the Texas Constitution. (41st Legis., 1st C.S., Ch. 103, Sec. 4, sen. 1 (part).)

§ 62.022. Composition

A district may include within its boundaries all or part of villages, towns, cities, road districts, drainage districts, irrigation districts, levee districts, other improvement districts, and municipal corporations of any kind but may not include the territory of more than three counties or parts of three counties. (39th Legis., G.L., Ch. 5, Sec. 1, sen. 1 (part), 2 (part); 41st Legis., 1st C.S., Ch. 103, Sec. 4, sen. 1 (part), 2 (part).)

§ 62.023. Petition

(a) Any person may present a petition to the commissioners court in the county of jurisdiction, at a regular or special session, requesting the creation of a district.

(b) The petition shall be signed by 25 of the property taxpaying electors who reside inside the boundaries of the proposed district. If there are less than 75 property taxpaying electors who reside inside the boundaries of the proposed district, the petition shall be signed by one-third of them.

(c) The petition shall include:

- (1) a request that the district be created;
- (2) the boundaries of the district accompanied by a map;
- (3) the general nature of the proposed improvements;
- (4) an estimate of the probable cost of the improvements; and
- (5) the name of the district, which shall include the name of the county.

(d) The petition shall be accompanied by an affidavit of the petitioners' qualifications. (39th Legis., G.L., Ch. 5, Sec. 2, sen. 1 (part).)

§ 62.024. Deposit

At the time the petition is filed with the commissioners court, the petitioner shall deposit \$500 in cash with the clerk of the commissioners court. The clerk shall keep the deposit until after the result of the election to create the district is declared and entered in the record by the commissioners court. (39th Legis., G.L., Ch. 5, Sec. 26, sen. 1 (part).)

§ 62.025. Date of Hearing

(a) On presentation of the petition, the commissioners court of the county of jurisdiction shall set it for a hearing at the regular term of the commissioners court or at a special session called for that purpose. The hearing shall be held not less than 30 nor more than 60 days from the day the petition is presented.

(b) If the hearing is required by Section 62.026 of this code, to be held by the navigation board, the commissioners court shall set the hearing at the regular meeting place of the commissioners court not less than 30 nor more than 60 days from the day the petition is presented without reference to any term of the commissioners court. (39th Legis., G.L., Ch. 5, Sec. 2, sen. 1 (part); Sec. 4 (part).)

§ 62.026. Hearing Before the Board

If the boundaries of a proposed district include all or part of a city or cities acting under special charter granted by the legislature, the hearing on the petition shall be held before the board. (39th Legis., Ch. 5, Sec. 3, sen. 1 (part), as amended.)

§ 62.027. Notice of Hearing

(a) The commissioners court shall order the clerk to post a copy of the petition together with the order of the commissioners court in five public places in the county, one of which shall be the courthouse door and four of which shall be in different places inside the limits of the proposed district. The notice shall be posted not less than 20 days before the time set for the hearing.

(b) If the district is composed of more than one county, a copy of the petition together with the order shall be posted at the courthouse door of each county in which any portion of the proposed district is located, and four copies shall be posted at four other places inside the included territory of each county.

(c) The clerk shall receive \$1 as compensation for posting each notice and five cents a mile for each mile necessarily traveled in posting the notices. (39th Legis., G.L., Ch. 5, Sec. 2, sen. 1 (part), 2, 3; Sec. 4 (part).)

§ 62.028. Hearing on Petition

(a) The commissioners court or the board has exclusive jurisdiction to hear and determine all contests and objections and other matters relating to creating a district and in all subsequent proceedings.

(b) Any person who has taxable property in the proposed district or who may be affected by the creation of the district may appear at the hearing and contest or support the creation of the district, offer testimony for or against the boundaries, show that the proposed improvements would or would not be of any public utility and would or would not be practicable and feasible, present evidence of the probable cost of the improvements, or present any other matter relating to the district.

(c) The commissioners court or navigation board may adjourn the hearing from day to day, and judgments or decisions rendered by the commissioners court or the board are final except as otherwise provided by this chapter. (39th Legis., G.L., Ch. 5, Sec. 7.)

§ 62.029. Findings

(a) If the commissioners court or the board finds that the improvements would be feasible and practicable and would be a public benefit and utility and approves the boundaries as set out in the petition, it shall compute the amount of money necessary for the improvements and all incidental expenses and shall determine whether to issue bonds for the full amount or for a smaller amount in the first instance.

(b) The commissioners court or the board shall specify:

- (1) the amount of bonds to be issued;
- (2) the length of time the bonds will run; and
- (3) the rate of interest.

(c) The findings and specifications together with a map of the district shall be recorded in the minutes of the commissioners court or the board.

(d) If the commissioners court or the board does not approve the proposed boundaries of the district, it shall define the boundaries it considers correct. Before any change is made in the boundaries of the proposed district, notice shall be given and a hearing held as provided in Sections 62.027 and 62.028 of this code.

(e) If the commissioners court or the board finds that the improvements are unnecessary and would not be practicable or feasible and would not be a public benefit or utility, it shall enter these findings in

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the minutes and shall dismiss the petition at the cost of the petitioners. However, the dismissal of a petition does not prevent or conclude the presentation of a similar petition at a later date. (39th Legis., G.L., Ch. 5, Sec. 8.)

§ 62.030. Election Order

(a) If the commissioners court or the board finds in favor of the petitioners for the creation of the district, the commissioners court of the county of jurisdiction shall order an election to be held inside the proposed district at the earliest legal time.

(b) The order of the court shall provide for submitting to the electors residing in the proposed district the question of whether or not the district will be created and whether or not proposed bonds will be issued and a tax levied sufficient to pay the interest and provide a sinking fund sufficient to redeem the bonds at maturity.

(c) The order shall specify:

(1) the amount of bonds to be issued;

(2) the length of time the bonds will run; and

(3) the rate of interest. (39th Legis., G.L., Ch. 5, Sec. 9, sen. 1, 2 (part).)

§ 62.031. Notice of Election

(a) The clerk of the commissioners court shall prepare notice of the election and shall post the notice for 30 days before the day set for the election.

(b) The notice shall be posted in the same places specified in Section 62.027 of this code.

(c) The notice shall state:

(1) the time and place of holding the election;

(2) the proposition to be voted on; and

(3) the purpose for which the bonds are to be issued and the amount of the bonds.

(d) The notice shall contain a copy of the order of the court ordering the election. (39th Legis., G.L., Ch. 5, Sec. 10.)

§ 62.032. Ballot

The ballot shall be printed to provide for voting for or against the proposition: "The creation of the navigation district and the issuance of bonds and levy of a tax for the payment of the bonds." (39th Legis., G.L., Ch. 5, Sec. 9, sen. 2 (part).)

§ 62.033. Conduct of Election

(a) The commissioners court shall issue an order creating and defining the voting precincts in the proposed district and shall name polling places within the precincts. In designating the polling places, the commissioners court shall take into consideration the convenience of the voters in the proposed district.

(b) The commissioners court shall select and appoint the judges and other necessary officers of election. (39th Legis., G.L., Ch. 5, Sec. 11, sen. 3.)

§ 62.034. Canvass of Returns

(a) Immediately after the election, the election officers shall make returns of the result and return the ballot boxes to the clerk of the commissioners court of jurisdiction.

(b) The clerk shall deliver the boxes and the returns of the election to the commissioners court of jurisdiction at its next regular or special session.

(c) At that session, the commissioners court shall canvass the returns of the election. (39th Legis., G.L., Ch. 5, Sec. 12 (part).)

§ 62.035. Declaration of Result

(a) If a majority of the votes favor creating the district, issuing bonds, and levying a tax, the commissioners court shall declare the result and enter it in the minutes of the commissioners court as follows:

"Commissioners court of _____ County, Texas. _____ term A.D. _____, in the matter of the petition of _____ and _____ others requesting the creation of a navigation district, issuance of bonds, and levy of a tax in the petition described and designated by the name of _____ Navigation District. Be it known that at an election called for that purpose in the district, held on the _____ day of _____ A. D. _____, a majority of the electors voting voted in favor of the creation of the navigation district, the issuance of bonds, and the levy of a tax. Now, therefore, it is considered and ordered by the commissioners court that the navigation district, be and the same is hereby established by the name of _____ Navigation District, and that bonds of the district in the amount of \$_____ be issued, and a tax of _____ cents on the \$100 valuation, or so much thereof as may be necessary to be levied upon all property within the navigation district, whether real, personal, mixed, or otherwise, sufficient in amount to pay the interest on the bonds and provide a sinking fund to redeem that at maturity, and that if the tax shall at any time become insufficient for these purposes it shall be increased until it is sufficient. The metes and bounds of the district are as follows: (Give metes and bounds)." (39th Legis., Ch. 5, Sec. 12 (part).)

§ 62.036. Expenses

(a) If the result of the election favors the creation of the district, the clerk shall return the \$500 deposit required by Section 62.024 of this code to the signers of the original petition, their agents or their attorney.

(b) If the result of the election is against the creation of the district, the clerk shall pay out of the \$500 deposit on vouchers signed by the county judge, all costs and expenses relating to the proposed district up to and including the election. The balance, if any, of the \$500 shall be returned to the signers of the original petition, their agents, or their attorney. (39th Legis., G.L., Ch. 5, Sec. 26 (part).)

[Sections 62.037–62.060 reserved for expansion]

SUBCHAPTER C. ADMINISTRATIVE PROVISIONS**Section 62.061. Navigation Board**

(a) The navigation board shall include the members of the commissioners court and the mayor and aldermen or commissioners of the included

city or cities acting under special charter granted by the legislature. If there is only one city or part of one city acting under special charter granted by the legislature inside the proposed district and if the charter of the city at any time authorizes the city council or city board of commissioners to be greater in number than the members of the commissioners court, the number of aldermen or city commissioners who are entitled to sit and vote as members of the board along with the mayor will be limited to that number which equals the number of members of the commissioners court. The aldermen or city commissioners entitled to act as members of the board shall be determined by the members of the city council or city board of commissioners among themselves.

(b) The county judge, and in his absence the mayor, shall preside at meetings of the board and each member of the board, including the presiding officer, is entitled to a vote.

(c) A majority of the members of the board constitute a quorum, and action of a majority of the quorum shall control.

(d) The county clerk shall enter the proceedings of the board in a book kept for that purpose, and the book shall be available for public inspection. (39th Legis., G.L., Ch. 5, Sec. 3, sen. 1 (part), 2, 3, as amended; Sec. 5.)

§ 62.062. Appointment of Initial Commissioners

(a) After the creation of the district, the commissioners court or board shall appoint three navigation and canal commissioners who shall compose the navigation and canal commission. (41st Legis., 1st C.S., Ch. 103, Sec. 5, sen. 1 (part), as amended.)

(b) After the initial commissioners on the navigation and canal commission complete their terms, subsequent commissioners shall be elected. (New.)

§ 62.063. Election of Commissioners

(a) Commissioners shall be elected on the second Saturday in July of each odd-numbered year at an election ordered by the commission.

(b) The secretary of the commission shall give notice of the election by posting at least three copies of the notice at three public places inside the district or by publishing the notice for 20 days before the election in a newspaper with general circulation in the district. (41st Legis., 1st C.S., Ch. 103, Sec. 5, sen. 3 (part), 5 (part), as amended.)

§ 62.064. Qualifications of Commissioners

Each person who is appointed or elected commissioner shall be a resident of the proposed navigation district and shall be an elector of the county. (41st Legis., 1st C.S., Ch. 103, Sec. 5, sen. 1 (part), as amended.)

§ 62.065. Term of Office

Commissioners shall hold office for staggered terms of six years and until their successors are elected and have qualified. (41st Legis., 1st C.S., Ch. 103, Sec. 5, sen. 2 (part), 3 (part), 4, as amended.)

§ 62.066. Vacancies

(a) A vacancy on the commission shall be filled by the remaining members of the commission.

(b) If two or more vacancies on the commission occur at the same time, a special election may be called on petition signed by 50 electors.

(c) Notice of the election shall be given by publishing or posting notice for at least 20 days before the election.

(d) The petition for the election shall include the names of the judges and clerks of the election, and the judges and clerks shall jointly canvass the returns, declare the result, and issue certificates of election to the successful candidates. (41st Legis., 1st C.S., Ch. 103, Sec. 5, sen. 7 (part), as amended.)

§ 62.067. Removal from Office

(a) A commissioner may be removed from office for malfeasance or nonfeasance in office by unanimous vote of the commissioners court or the board after a hearing held according to law.

(b) Appeal from a judgment of removal may be taken to a district court of the county in which the commissioner resides. The court shall try the case de novo. (41st Legis., 1st C.S., Ch. 103, Sec. 5, sen. 2 (part), as amended.)

§ 62.068. Oath of Commissioners

(a) Before each commissioner begins to perform his duties, he shall take and subscribe before the county judge of the county of jurisdiction an oath to discharge faithfully the duties of his office without favor or partiality and to render a true account of his activities to the commissioners court of the county of jurisdiction or the board whenever required to do so.

(b) The oath shall be filed by the clerk of the commissioners court and preserved as part of the records of the district. (39th Legis., G.L., Ch. 5, Sec. 14.)

§ 62.069. Bond of Commissioners

Before a commissioner begins to perform his duties, he shall execute a good and sufficient bond for \$1,000, payable to the county judge of the county of jurisdiction for the use and benefit of the district and conditioned on the faithful performance of his duties. (39th Legis., G.L., Ch. 5, Sec. 15.)

§ 62.070. Compensation of Commissioners

Each commissioner shall receive for his services the compensation determined by the commissioners court of the county of jurisdiction. (41st Legis., 1st C.S., Ch. 103, Sec. 5, sen. 1 (part), as amended.)

§ 62.071. Organization of Commission

(a) The commission shall organize by electing one of the members chairman and one secretary.

(b) Two of the commissioners constitute a quorum. A concurrence of two is sufficient in all matters relating to the business of the district. (39th Legis., G.L., Ch. 5, Sec. 16.)

§ 62.072. Two-County Districts; Appointment of Commission

(a) In a district composed of land in two or more counties, the commissioners court of the county of jurisdiction by a majority vote shall ap-

point one commissioner. The commissioners court of the other county included in whole or in part within the district shall appoint by a majority vote a second commissioner. The two commissioners courts shall appoint the third commissioner at a joint meeting of the two commissioners courts called and presided over by the county judge of the county of jurisdiction.

(b) Notice in writing of the joint meeting of commissioners courts shall be given by mail or delivered in person at least two days before the day set for the meeting.

(c) Each of the county judges and county commissioners composing the commissioners courts of both counties shall be entitled to one vote in appointing the third commissioner. A majority vote of those present at the meeting shall be sufficient to make the appointment.

(d) On the termination of the term of office of each commissioner or in case of vacancy, a successor shall be appointed by the same commissioners court which appointed the commissioner whose place is being filled.

(e) Except for the matters expressly provided for in this section, two-county districts are subject to all other provisions of this subchapter. (39th Legis., G.L., Ch. 5, Sec. 47, as added.)

§ 62.073. District Treasurer

The county treasurer of the county of jurisdiction shall be treasurer of the district. (39th Legis., G.L., Ch. 5, Sec. 32, sen. 1 (part).)

§ 62.074. Treasurer's Bond

(a) The county treasurer shall execute a good and sufficient bond, payable to the commissioners, in an amount equal to twice the amount of funds he will hold at any time as treasurer of the district. The commissioners shall estimate the sum to be used as a basis for computing the amount of the required bond. The bond shall be conditioned for the faithful performance by the treasurer of his duties for the district and must be approved by the commissioners.

(b) When any bonds are voted by the district, the county treasurer, before receiving the proceeds from the sale of the bonds, shall execute an additional good and sufficient bond, payable to the commissioners, in an amount which is twice the amount of bonds issued. This additional bond shall be conditioned and approved in the same manner as the first but shall not be required after the treasurer has disbursed the proceeds of the bond issue. (39th Legis., G.L., Ch. 5, Sec. 33 (part).)

§ 62.075. Treasurer's Compensation

The county treasurer shall be allowed as compensation for his services as treasurer of the district the amount determined by the commissioners. The compensation may not exceed the percentage authorized by law for his services as county treasurer. (39th Legis., G.L., Ch. 5, Sec. 33 (part).)

§ 62.076. District Engineer

(a) The commission may employ a competent engineer who shall serve at the will of the commission.

(b) The district engineer shall receive the compensation determined by the commission. (39th Legis., G.L., Ch. 5, Sec. 17, sen. 1.)

§ 62.077. Assistant Engineers and Employees; Counsel; Salaries and Fees

(a) The commission may employ assistant engineers and other employees which may be necessary.

(b) The commission may employ counsel to represent the district in the preparation of any contract, to conduct any proceedings in or out of court, and to be the legal adviser of the commission on such terms as may be agreed upon by the commission.

(c) The amount of compensation for employees and fees of counsel shall be determined by the commission. (39th Legis., G.L., Ch. 5, Sec. 44 (part).)

§ 62.078. Suits; Judicial Notice

(a) A district established under this chapter may, by and through the commission, sue and be sued in all courts of this state in the name of the district.

(b) All courts of this state shall take judicial notice of the establishment of all districts. (39th Legis., G.L., Ch. 5, Sec. 46.)

[Sections 62.079–62.100 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES

Section 62.101. Purposes of District

A district may be created under this chapter to provide, in or adjacent to its boundaries, for:

(1) the improvement, preservation, and conservation of inland and coastal water for navigation;

(2) the control and distribution of storm water and floodwater of rivers and streams in aid of navigation; and

(3) any other purposes necessary or incidental to the navigation of inland and coastal water or in aid of these purposes, as stated in Article XVI, Section 59, of the Texas Constitution. (41st Legis., 1st C.S., Ch. 103, Sec. 4, sen. 2 (part).)

§ 62.102. Districts as Governmental Agencies

All districts created under this chapter shall be governmental agencies and bodies politic and corporate with the powers of government and with the authority to exercise the rights, privileges, and functions which are essential to the accomplishment of those purposes. (41st Legis., 1st C.S., Ch. 103, Sec. 4, sen. 2 (part).)

§ 62.103. Duties of County Officials

The powers and duties conferred by this chapter on the county judge, members of the commissioners court, the mayor and aldermen or commissioners of cities, the county clerk, and other officers are made a part of the legal duty of those officials. Unless otherwise provided in this chapter, these persons shall exercise and perform these powers and duties without additional compensation. (39th Legis., G.L., Ch. 5, Sec. 6.)

§ 62.104. Duties of District Engineer

It shall be the duty of the district engineer:

- (1) to make all necessary surveys, examinations, investigations, maps, plans, and drawings with reference to proposed improvements;
- (2) to make estimates of the cost of proposed improvements;
- (3) to supervise the work of improvement; and
- (4) to perform all duties which may be required of him by the commission. (39th Legis., G.L., Ch. 5, Sec. 17, sen. 2, 3.)

§ 62.105. Right-of-Way

The commission may by gift, grant, purchase, or condemnation acquire the necessary right-of-way and property of any kind for all necessary improvements contemplated by this chapter. (39th Legis., G.L., Ch. 5, Sec. 35.)

§ 62.106. Condemnation Proceedings

(a) The district may exercise the power of eminent domain to condemn and acquire the right-of-way over and through any and all public and private land necessary:

- (1) for the improvement of any river, bay, creek, or stream;
- (2) for the construction and maintenance of any canal or waterway; and
- (3) for any and all purposes authorized by this chapter.

(b) Condemnation proceedings instituted under Subsection (a) of this section shall be instituted under the direction of the commission and in the name of the district. The assessment of damages shall be in conformity with the laws of the State of Texas for condemnation and acquisition of rights-of-way by railroads.

(c) No appeal from the finding and assessment of damages by the commissioners shall have the effect of causing a suspension of work by the commission in prosecuting the work of improvement in all of its details.

(d) No right-of-way may be condemned through any part of an incorporated city or town without the consent of the lawful authorities of that city or town.

(e) A district created under this chapter may elect to take advantage of the condemnation procedure provided in Subchapter F of Chapter 51 of this code. (39th Legis., G.L., Ch. 5, Sec. 34; 39th Legis., G.L., Ch. 25, Sec. 126, sen. 100, as amended.)

§ 62.107. Acquisition of Land

(a) Any district created under this chapter may acquire by gift, purchase, or condemnation and may own land adjacent or accessible to the navigable water and ports developed by it which may be necessary or required for any and all purposes incident to or necessary for the development and operation of the navigable water or ports within the district, or may be necessary or required for or in aid of the development of industries on the land.

(b) The district may lease any part of the acquired land to any individual or corporation and may charge for the lease reasonable tolls, rents, fees, or other charges. The district may use the proceeds both for the maintenance and operation of the business of the district and for the purpose of making the district self-supporting and financially solvent

and returning the construction costs of the improvements within a reasonable period.

(c) The acquisition of land for the purposes included in this section and the operation and industrial development of ports and waterways are a public purpose and a matter of public necessity. (39th Legis., G.L., Ch. 5, Sec. 50, as added.)

§ 62.108. Entry on Property

The commissioners and the engineers of a district together with all necessary teams, help, tools, and instruments may go on any land inside the district to examine the land and to make plans, surveys, maps, and profiles without subjecting themselves to the action of trespass. (39th Legis., G.L., Ch. 5, Sec. 36.)

§ 62.109. Bids

(a) Any person, corporation, or firm which desires to bid on the construction of any work advertised under Section 62.110 of this code shall, on application to the commission, be furnished the survey, plans, and estimates for the work.

(b) All bids or offers for the work shall be in writing, sealed, and delivered to the chairman of the commission together with a certified check for at least five percent of the total amount of the bid.

(c) If a bid is accepted but the bidder refuses to enter into a proper contract, the deposit required by Subsection (b) of this section shall be forfeited to the district.

(d) Any and all bids may be rejected at the discretion of the commission.

(e) A district may take advantage of the bid procedure in Sections 63.168–63.170 of this code by passing a simple resolution and entering it in its minutes. (39th Legis., G.L., Ch. 5, Sec. 38; 58th Legis., Ch. 482, Sec. 1A.)

§ 62.110. Notice of Bids

Notice that a contract is to be awarded shall be given by publishing notice once a week for four consecutive weeks in one or more newspapers with general circulation in the state and by posting notice for at least 30 days in five public places in the county of jurisdiction, one of which shall be the courthouse door and at least two of which shall be inside the district. (39th Legis., G.L., Ch. 5, Sec. 37, sen. 1 (part).)

§ 62.111. Award of Contract

(a) All contracts for improvements, except those carried out and performed by the government of the United States, shall be awarded by the commission to the lowest and best responsible bidder.

(b) Nothing in this section shall prevent the making of more than one improvement. Where more than one improvement is to be made, a contract may be awarded separately for each improvement or one contract may be awarded for all the improvements. (39th Legis., G.L., Ch. 5, Sec. 37, sen. 1 (part), 2.)

§ 62.112. Interest in Contracts

No county judge or county commissioner of any county in a district, board member, or district engineer may be directly or indirectly interested for himself or as agent for another in a contract for the construction of work to be performed by the district. (39th Legis., G.L., Ch. 5, Sec. 45.)

§ 62.113. Form of Contracts

All contracts made by the commission shall be in writing and signed by the contractors and at least two of the commissioners. A copy of the contract shall be filed with the county clerk. (39th Legis., G.L., Ch. 5, Sec. 39.)

§ 62.114. Bond of Contractor

(a) The party, firm, or corporation to whom a contract is awarded under Section 62.111 of this code shall execute a bond, payable to the commission, for twice the amount of the contract price, conditioned on faithful performance of the obligations, agreements, and covenants of the contract and that in default of the performance he will pay to the district all damages sustained by reason of the default.

(b) The bond shall be approved by the commission. (39th Legis., G.L., Ch. 5, Sec. 40.)

§ 62.115. Supervision of Work; Report

(a) Unless done under the supervision of the United States, all work contracted for by the commission shall be done under the supervision of the district engineer.

(b) After work is completed according to a contract awarded by the commission, the district engineer shall make a detailed report of the work to the commission. The report shall show whether or not the contract has been fully complied with and if not, in which particular the contractor has failed to comply. (39th Legis., G.L., Ch. 5, Sec. 41.)

§ 62.116. Inspection of Work; Payment

(a) The commission shall inspect the progress of work being done under a contract, and on completion of the contract, the commission shall draw a warrant on the county treasurer payable to the contractor or his assignee for the amount of the contract price. The warrant shall be paid out of the construction and maintenance fund of the district.

(b) If the commission considers it advisable, it may contract for work to be paid for in partial payments as the work progresses. The partial payments may not exceed in the aggregate eight percent of the total amount to be paid under the contract. The amount of work completed at the time of the partial payment shall be shown by a certificate of the district engineer.

(c) Nothing in this section shall affect the provisions of this chapter providing for the construction of any improvements by the United States. (39th Legis., G.L., Ch. 5, Sec. 42.)

§ 62.117. Annual Report

(a) The commission shall make an annual report of its official acts and file it with the clerk of the commissioners court on or before January 1 of each year.

- (b) The report shall include in detail:
- (1) the kind, character, and amount of work done in the district;
 - (2) the cost of the work;
 - (3) the amount paid out on order and for what purpose paid; and
 - (4) other data necessary to show the condition of improvements made under the provisions of this chapter. (39th Legis., G.L., Ch. 5, Sec. 43.)

§ 62.118. Cooperation with United States

(a) If a river, creek, stream, bay, canal, or waterway to be improved is navigable or the proposed improvement is of a nature which requires the permission or consent of the United States, the commission may obtain the required permission or consent of the United States.

(b) Instead of or in addition to employing an engineer as provided in Section 62.076 of this code the commission may:

- (1) adopt any survey of a river, creek, canal, stream, bay, or waterway previously made by the United States;
- (2) arrange for surveys, examinations, and investigations of the proposed improvement; and
- (3) arrange for supervision of the work of improvement by the United States.

(c) The commission may cooperate and act with the United States in any and all matters relating to the construction and maintenance of canals and the improvement and navigation of navigable rivers, bays, creeks, streams, canals, and waterways.

(d) The authority to cooperate shall extend to surveys, work, or expenditures of money made or to be made either by the commission or by the United States.

(e) The United States may aid in all such matters, and the commission shall have authority to consent to the United States entering on and taking management and control of the work where necessary or permissible under the laws, regulations, and orders of the United States. (39th Legis., G.L., Ch. 5, Sec. 17, sen. 4.)

§ 62.119. Preference Lien; Waiver; Enforcement

(a) If a district leases, rents, furnishes, or supplies water to any person, association of persons, water improvement district, or corporation for the purpose of irrigation, the district shall have, without regard to contract, a preference lien superior to every other lien on the crop or crops raised on the land which is irrigated.

(b) If any district obtains a water supply under contract with the United States, the board of directors of the district may, by resolution entered in the minutes and with consent of the secretary of the interior, waive the preference lien, in whole or in part.

(c) For the enforcement of the lien provided in Subsection (a) of this section, all districts are entitled to all the rights and remedies prescribed by Title 84, Revised Civil Statutes of Texas, 1925, as amended, for the enforcement of the lien between landlord and tenant.

(d) The authority granted by this section shall be cumulative of, and in addition to, the authority granted by other laws. (39th Legis., G.L., Ch. 5, Sec. 51, 52, as added.)

[Sections 62.120–62.150 reserved for expansion]

SUBCHAPTER E. GENERAL FISCAL PROVISIONS

Section 62.151. Construction and Maintenance Fund

(a) The construction and maintenance fund shall include money received from the sale of bonds and all other sources except tax collections placed in the sinking fund to pay the principal of and the interest on bonds.

(b) After the original petition is filed, all expenses necessarily incurred in connection with the creation, establishment, and maintenance of the district shall be paid from the construction and maintenance fund. (39th Legis., G.L., Ch. 5, Sec. 26 (part).)

§ 62.152. Warrants

The commission may draw warrants:

- (1) to pay for legal services;
- (2) to pay the salary of the engineer, his assistant, and any other employees; and
- (3) to pay all expenses incident to operation of the district. (39th Legis., G.L., Ch. 5, Sec. 44 (part).)

§ 62.153. Duties of District Treasurer

The district treasurer shall:

- (1) open an account for all funds received by him for the district and all district funds which he pays out;
- (2) pay out money on vouchers signed by the chairman of the commission, any two members of the commission, or the commissioners court;
- (3) carefully preserve all orders for the payment of money; and
- (4) render a correct account to the commissioners court of all matters relating to the financial condition of the district as often as required by the commissioners court. (39th Legis., G.L., Ch. 5, Sec. 32, sen. 1 (part), 2.)

§ 62.154. Applicability of Sections 62.155–62.159

Sections 62.155–62.159 of this code apply to all revenue, income, money, funds, or increment except revenue derived from taxation which may result from the ownership and operation of the district's improvements and facilities. However, these sections do not apply to any of the following counties:

- (1) Matagorda;
- (2) Fort Bend;
- (3) Brazoria;
- (4) Chambers;
- (5) Galveston; and
- (6) Harris. (54th Legis., Ch. 238, Sec. 1; Sec. 2, sen. 2.)

§ 62.155. Deposit in Banking Corporation

(a) Instead of depositing the revenue of the district in the manner provided by law for districts, the commission may deposit the revenue in a banking corporation in the manner provided in Section 62.156 of this code.

(b) On selection of a banking corporation by the commission under Subsection (a) of this section, revenue of the district held by anyone other than the selected banking corporation, on order of the commission, shall be deposited in the selected banking corporation to the credit of the district. (54th Legis., Ch. 238, Sec. 2, sen. 1.)

§ 62.156. Selection of Depository

(a) The commission shall select a banking corporation which will secure the deposit of the revenue pursuant to the statutes relating to county depositories insofar as applicable. "Commissioners court" and "county judge" as used in the statutes relating to county depositories shall mean the commission and the commission chairman respectively.

(b) The commission may select the banking corporation to serve as the depository for a period of not more than two years from the day of selection, and at least 60 days before the end of the period, the commission shall determine whether to continue to deposit district revenue as provided in this section or to deposit the revenue as provided in the general laws relating to navigation districts.

(c) If the commission decides to deposit district revenue under the general laws relating to navigation districts, it, at any time in the future, may elect to select a depository in the manner provided in this section. (54th Legis., Ch. 238, Sec. 3, sen. 1, 2, 3.)

§ 62.157. Payment of District Revenue

Revenue of the district which is deposited with the banking corporation may be paid out according to the terms and conditions agreed to by the district and the banking corporation. (54th Legis., Ch. 238, Sec. 3, sen. 4.)

§ 62.158. Audit of Revenue

(a) The commission of a district which deposits its revenue with a banking corporation shall, not later than March 1 of each year, have an audit made of the revenue of the district on deposit with the banking corporation for all or part of the preceding calendar year.

(b) The audit shall be made by the county auditor of the county of jurisdiction or by an independent certified accountant or firm of independent certified public accountants employed by the commission.

(c) The cost of the audit shall be paid by the commission out of available revenues.

(d) The audit shall be retained at the main office of the commission of the district and shall be available for public inspection at all reasonable times. (54th Legis., Ch. 238, Sec. 4.)

§ 62.159. Conflicts with Prior Bonds or Other Laws

If Sections 62.154–62.158 of this code conflict with the provisions of any bonds issued by a district and secured in whole or in part by a pledge of revenue, with the proceedings authorizing the bonds, or with any special act relating to one specific district, the bonds, proceedings, and special act shall control over these sections. (54th Legis., Ch. 238, Sec. 5.)

§ 62.160. Maintenance Tax

The commissioners courts of the respective counties inside each district may levy and have assessed and collected for the maintenance, operation,

and upkeep of the district and the improvements constructed by the district an annual tax not to exceed 10 cents on the \$100 valuation on all property inside the district. (39th Legis., G.L., Ch. 5, Sec. 27 (part).)

[Sections 62.161–62.190 reserved for expansion]

SUBCHAPTER F. BOND PROVISIONS

Section 62.191. Issuance of Navigation Bonds

(a) After the commission determines the cost of proposed improvements, incidental expenses, and maintenance costs, it shall certify to the commissioners court of the county of jurisdiction the amount of bonds necessary to be issued.

(b) The commissioners court, at a regular or special meeting, shall issue an order directing the issuance of navigation bonds for the district in the amount so certified. The amount of bonds may not be more than the amount authorized by the election. (39th Legis., G.L., Ch. 5, Sec. 18, sen. 1.)

§ 62.192. Issuance of Additional Bonds

(a) If the proceeds of bonds issued by a district are insufficient to complete the proposed improvement or construction, if the commissioners decide to begin other and further construction or improvements, or if additional funds are required to maintain the improvements made, the commission shall certify to the commissioners court the necessity for an additional bond issue.

(b) Unless the amount previously authorized has been exhausted, the commissioners court shall issue the bonds.

(c) The certification to the court shall state:

- (1) the amount of bonds required;
- (2) the purpose of the bonds;
- (3) the rate of interest; and
- (4) the length of time for which the bonds are to run. (39th Legis., G.L., Ch. 5, Sec. 18, sen. 2 (part).)

§ 62.193. Bond Election

(a) If the authorized amount of bonds is exhausted, the commissioners court shall order an election on the issuance of additional bonds to be held in the district at the earliest legal time.

(b) The ballots shall be printed to provide for voting for or against the proposition: "The issuance of bonds and the levy of a tax to pay for the bonds."

(c) Notice shall be given, the election conducted, and the returns canvassed in the manner provided for the original bond election in Subchapter B of this chapter. (39th Legis., G.L., Ch. 5, Sec. 18, sen. 2 (part), 3.)

§ 62.194. Order for Bonds and Tax

If on the canvass of the vote it is determined that a majority of the votes cast at the election were in favor of the issuance of bonds and levy of tax, the commissioners court shall issue an order directing the issuance of the bonds and the levy of a tax. (39th Legis., G.L., Ch. 5, Sec. 19.)

§ 62.195. Form of Bonds

(a) Bonds issued under the provisions of this chapter shall be issued in the name of the district, signed by the county judge of the county of jurisdiction, and attested by the county clerk of the county of jurisdiction with the seal of the commissioners court of the county of jurisdiction affixed to them.

(b) The bonds shall be issued in the denominations and payable at the time or times, not more than 40 years from their date, which may be considered most expedient by the commissioners court. (39th Legis., G.L., Ch. 5, Sec. 20.)

§ 62.196. Duties of Attorney General

(a) Before the bonds are offered for sale, the district shall send to the attorney general:

(1) a copy of the bonds to be issued;

(2) a certified copy of the order of the commissioners court levying the tax;

(3) a copy of the order of the commissioners court levying the tax to pay interest and provide a sinking fund;

(4) a statement of the total bonded indebtedness of the district, including the series of bonds proposed and the assessed value of property for the purpose of taxation, as shown by the last official assessment by the county; and

(5) other information which the attorney general may require.

(b) The attorney general shall carefully examine the bonds in connection with the facts, the constitution, and the laws on the execution of the bonds.

(c) If as the result of the examination the attorney general finds that the bonds were issued in conformity with the constitution and laws and that they are valid and binding obligations on the district, he shall officially certify the bonds. (39th Legis., G.L., Ch. 5, Sec. 21.)

§ 62.197. Registration of Bonds

After the bonds have been examined by the attorney general and his certificate issued, they shall be registered by the comptroller in a book to be kept for that purpose, and the certificate of the attorney general shall be preserved in the record for use in the event of litigation. (39th Legis., G.L., Ch. 5, Sec. 22, sen. 1.)

§ 62.198. Validity of Bonds

(a) After the bonds have been approved by the attorney general and registered by the comptroller, they shall be held in every action, suit, or proceeding in which their validity is or may be brought in question prima facie valid and binding obligations.

(b) In every action brought to enforce collection of bonds or interest on them, the certificate of the attorney general, or a duly certified copy of it, shall be admitted and received as prima facie evidence of the validity of the bonds and the coupons attached.

(c) The only defense that can be offered against the validity of the bonds or coupons is forgery or fraud. (39th Legis., G.L., Ch. 5, Sec. 22, sen. 2, 3.)

§ 62.199. Record of Bonds

(a) After bonds have been issued under the provisions of this chapter, the board shall procure and deliver to the treasurer of the county of jurisdiction a well-bound book in which a record shall be kept of all the bonds.

(b) A record shall be kept in the book of:

- (1) the bond numbers and amount of the bonds;
- (2) the rate of interest;
- (3) the date of issuance and the date when the bonds are due and where payable;
- (4) the proceeds from the bonds;
- (5) the tax levy to pay interest on and to provide a sinking fund for bond payment; and
- (6) any payment of a bond.

(c) The book shall at all times be open to the inspection of interested parties, either taxpayers, bondholders, or otherwise, in the district.

(d) The county treasurer shall receive for his services in recording these matters the same fees which are allowed by law to the county clerk for similar records. (39th Legis., G.L., Ch. 5, Sec. 23.)

§ 62.200. Sale of Bonds

(a) After the bonds have been registered, the chairman of the commission shall offer the bonds for sale and shall sell the bonds on the best terms and for the best price possible. None of the bonds shall be sold for less than face par value and accrued interest.

(b) After money is received from the sale of bonds, it shall be paid to the county treasurer and he shall place it to the credit of the district. (39th Legis., G.L., Ch. 5, Sec. 24.)

§ 62.201. Chairman's Bond

Before the chairman of the commission may sell any bonds, he shall execute a good and sufficient bond, payable to the county judge or his successors in office. The bond shall be approved by the commissioners court and shall be for an amount not less than the amount of the bonds issued, and shall be conditioned on the faithful discharge of his duties. (39th Legis., G.L., Ch. 5, Sec. 25.)

§ 62.202. Taxes; Sinking Fund Investment

(a) After district bonds have been voted, the commissioners court shall levy and have assessed and collected on all property in the district taxes sufficient in amount to pay the interest on the bonds and to annually deposit an amount in the sinking fund sufficient to discharge and redeem the bonds at their maturity.

(b) If advisable, the sinking fund shall from time to time be invested by the commissioners court in county, municipal, district, or other bonds which may be approved by the attorney general. (39th Legis., G.L., Ch. 5, Sec. 27 (part); Sec. 28.)

§ 62.203. Issuance of Refunding Bonds; Formalities

(a) A district which has outstanding bonds may, by order of the commissioners court of the county of jurisdiction and without submitting the proposition to an election, authorize and issue its refunding bonds for the purpose of retiring all or any part of its outstanding bonds.

(b) The refunding bonds may mature serially or otherwise in not more than 40 years from their date.

(c) The refunding bonds shall be executed in the name of the district by the county judge and county clerk under the seal of the commissioners court and shall in other respects have the details and be issued in the manner provided by the commissioners court in the order authorizing the bonds. (44th Legis., 1st C.S., Ch. 398, Sec. 1.)

§ 62.204. Refunding Bonds Sold at Par

The refunding bonds shall be sold by the commission at not less than their par value, delivered to the holders of not less than a like par amount of the bonds of the district authorized to be refunded in exchange for the prior bond obligations, or sold in part and exchanged in part. (44th Legis., 1st C.S., Ch. 398, Sec. 2.)

§ 62.205. Approval of Refunding Bonds by Attorney General

The refunding bonds shall be submitted to the attorney general for approval and shall be registered by the comptroller in the same manner and with the same effect as is now provided by law for the approval and registration of municipal bonds. (44th Legis., 1st C.S., Ch. 398, Sec. 3.)

§ 62.206. Tax Levy for Refunding Bonds

(a) If a district issues refunding bonds, the district shall annually levy taxes on all taxable property in the district sufficient to pay interest on the bonds as it becomes due and to pay the principal of the bonds at maturity.

(b) In making the annual levies, the district may take into consideration estimated delinquencies based on tax collection experience over the preceding years and levy the taxes in an amount, after deduction of estimated delinquencies, sufficient to pay principal and interest requirements and the cost of tax collection.

(c) In its discretion and so far as consistent with the rights of the holders of the bonds refunded, a district may pledge to the payment of the refunding bonds the proceeds of taxes levied for payment of the bonds refunded and delinquent at the time of the authorization of the refunding bonds, cash or securities in the sinking fund maintained for payment of the bonds refunded, or both. (44th Legis., 1st C.S., Ch. 398, Sec. 4.)

§ 62.207. Authority of Sections 62.203–62.206

Sections 62.203–62.206 of this code shall, without reference to other laws, constitute full authority for the issuance of refunding bonds. No proceedings, publications, elections, or referendums other than those required in Sections 62.203–62.206 shall be necessary to the authorization and issuance of refunding bonds. (44th Legis., 1st C.S., Ch. 398, Sec. 5.)

§ 62.208. Revenue Bonds

(a) A district may issue revenue bonds on the terms and under the provisions of Chapter 111, Acts of the 43rd Legislature, 1st Called Session, 1933, or Chapter 38, Acts of the 47th Legislature, Regular Session, 1941:

- (1) to purchase, construct, improve, enlarge, extend, and repair dams, reservoirs, water rights, water wells, canals, pipelines, pumps,

pump stations, land, easements, rights-of-way, and other property and facilities necessary to provide a water supply for the irrigation of land and for industrial, commercial, domestic, municipal, and other beneficial uses;

(2) to accomplish any of the purposes designated in the previously mentioned two acts; and

(3) for general improvement purposes without designating the improvement.

(b) If the bonds are issued for the purposes stated in Subsection (a) (1) of this section, the district may own and operate the facilities and sell and deliver water to any person. The properties and facilities, the uses for the water supply, and the purchasers of the water may be inside or outside the boundaries of the district but may not be inside the boundaries of any other previously created navigation district or flood control district.

(c) If the bonds are issued for general improvement purposes, the proceeds may be spent for any purpose designated in this section.

(d) As each installment of an authorized issue of bonds is prepared for delivery, the commission shall specify the particular purposes for which the proceeds of that installment will be spent.

(e) A district may enter into operating contracts and leases with responsible persons or corporations for the operation of those portions of the district's water distribution system which the commission may designate. In that case, the annual rentals to be paid to the district by the lessee shall be a sum sufficient to permit the district to meet its obligations for the payment of that proportionate part of any revenue bonds, including principal, interest, reserves, and other requirements provided in the bond proceedings, which were issued to acquire the leased properties. (39th Legis., G.L., Ch. 5, Sec. 48, as added.)

[Sections 62.209–62.250 reserved for expansion]

SUBCHAPTER G. TAX PROVISIONS

Section 62.251. Law Governing Assessment and Equalization of Taxes

Except as provided in this chapter, in all matters relating to the assessment of property for taxation in the district and the collection of taxes, the assessor and collector and the board of equalization of the county in which the district is located shall act and be governed by the laws of Texas for assessing and equalizing property and collecting taxes for state and county purposes. (39th Legis., G.L., Ch. 5, Sec. 29, sen. 2 (part); Sec. 30, sen. 2 (part).)

§ 62.252. Compensation of Assessor and Collector

The assessor and collector is entitled to receive for his services under this chapter the compensation the commission considers proper. However, the assessor and collector shall be allowed no more compensation for the collection of taxes for the district than is allowed for the collection of other taxes. (39th Legis., G.L., Ch. 5, Sec. 29, sen. 4; Sec. 30, sen. 1 (part).)

§ 62.253. Assessor and Collector's Bond

(a) The bond of the assessor and collector shall stand as security for the proper performance of his duties as the assessor and collector of the district.

(b) If necessary in the judgment of the commission, an additional bond, payable to the district, may be required.

(c) If the assessor and collector fails or refuses to give additional bond or security after being requested to do so by the commission and within the time prescribed by law for such purposes, he shall be suspended from office by the commissioners court of his county and immediately removed from office in the manner prescribed by law. (39th Legis., G.L., Ch. 5, Sec. 30, sen. 2 (part), 3.)

§ 62.254. Assessment of Property for Taxes

(a) The board shall provide all necessary books for the use of the assessor and collector and the clerk of the commissioners court of the county of jurisdiction.

(b) The assessor and collector of each county in the district, when ordered to do so by the commissioners court of the county of jurisdiction, shall assess all property within the district which is located in his county and list the property for taxation in the books or rolls furnished him for that purpose. He shall return the books or rolls at the same time he returns the other books or rolls of the state and county taxes for correction and approval to the commissioners court of his county.

(c) If the commissioners court of the county of jurisdiction finds the books or rolls correct, they shall approve them. (39th Legis., G.L., Ch. 5, Sec. 29, sen. 1, 2 (part).)

§ 62.255. Failure to Assess Taxes

If the assessor and collector fails or refuses to comply with the orders of the commissioners court requiring him to assess and list for taxation all the property in the district, he shall be suspended from the further discharge of his duties by the commissioners court of his county and shall be removed from office in the manner provided by law for the removal of county officers. (39th Legis., G.L., Ch. 5, Sec. 29, sen. 5.)

§ 62.256. Collection of Taxes

The assessor and collector of each county in a district is charged with the assessment roll of the part of the district in his county and shall collect all taxes levied and assessed against the property in the part of the district which is located in the county. He shall promptly pay the collections to the treasurer of the county of jurisdiction. (39th Legis., G.L., Ch. 5, Sec. 30, sen. 1 (part).)

§ 62.257. Taxes as Lien; Penalties

(a) All taxes authorized to be levied by this chapter shall be a lien upon the property upon which the taxes are assessed. The taxes shall mature and be paid at the time provided by the laws of this state for the payment of state and county taxes.

(b) All penalties provided by the laws of this state for the nonpayment of state and county taxes shall apply to all taxes authorized to be levied by this section. (39th Legis., G.L., Ch. 5, Sec. 29, sen. 3.)

§ 62.258. Tax Suits

A suit may be brought for the collection of the taxes and the enforcement of the tax liens created by this subchapter. (39th Legis., G.L., Ch. 5, Sec. 30, sen. 2 (part).)

§ 62.259. List of Delinquent Property

(a) The assessor and collector shall make a certified list of all delinquent property on which tax has not been paid and shall return the list to the commissioners court.

(b) The commissioners court shall collect the tax by the sale of the delinquent property in the same manner, both by suit and otherwise, as provided for the sale of property for the collection of state and county taxes.

(c) At the sale of any property for delinquent tax, the commission may purchase the property for the benefit of the district. (39th Legis., G.L., Ch. 5, Sec. 31.)

[Sections 62.260–62.290 reserved for expansion]

SUBCHAPTER H. ANNEXATION

Section 62.291. Annexation Authority

A district created under this chapter or converted from a district created under Article III, Section 52, of the Texas Constitution, into a conservation and reclamation district under Article XVI, Section 59, of the Texas Constitution, may extend its boundaries and annex adjacent territory. (41st Legis., 1st C.S., Ch. 103, Sec. 3, sen. 1 (part).)

§ 62.292. Petition

Before territory is annexed to the district, a petition signed by 50 or a majority of the electors residing in the adjacent territory proposed to be annexed shall be presented to the commission, requesting an election in the adjacent territory to determine whether or not the territory will be annexed and whether or not it will assume its pro rata part of the outstanding bonded debt of the district. (41st Legis., 1st C.S., Ch. 103, Sec. 3, sen. 1 (part).)

§ 62.293. Scheduling Petition for Hearing; Notice

(a) After a petition is presented under Section 62.292 of this code, the commission shall set the petition for a hearing to be held within 10 days from the date of presentation of the petition.

(b) Notice of the hearing shall be posted at three public places in the territory proposed to be annexed for at least five days before the hearing on the petition. The notice shall include the time and place of the hearing and the boundaries of the territory proposed to be annexed. (41st Legis., 1st C.S., Ch. 103, Sec. 3, sen. 1 (part).)

§ 62.294. Hearing

The commission shall hold the hearing on the subject of annexation of adjacent territory by the district, and any person who has taxable property in the territory proposed to be annexed may appear in person or by counsel and offer testimony or argument for or against the inclusion of

all or any part of the land proposed to be annexed. (41st Legis., 1st C.S., Ch. 103, Sec. 3, sen. 1 (part).)

§ 62.295. Election Order

If after the hearing the commission finds that inclusion of the territory proposed to be annexed would be a direct benefit to all the land in that territory, the commission shall order an election to be held in the territory proposed to be annexed. (41st Legis., 1st C.S., Ch. 103, Sec. 3, sen. 1 (part).)

§ 62.296. Notice of Election

(a) The election shall be held not less than 20 nor more than 30 days from the day of the election order and after notice is given.

(b) Notice of the election shall be published once a week for 20 days immediately preceding the election in some newspaper published in the territory proposed to be annexed. If no newspaper is published in the territory, notice shall be posted in three public places inside the territory for at least 20 days immediately preceding the election.

(c) The notice:

(1) shall give the time and place or places for holding the election;

(2) shall give the boundaries of the territory proposed to be annexed; and

(3) may contain the substance of the order of the commission ordering the election.

(d) The secretary of the commission shall have the notice published or posted. (41st Legis., 1st C.S., Ch. 103, Sec. 3, sen. 1 (part).)

§ 62.297. Ballots

The ballots for the election shall be printed to allow for voting for or against: "Annexation to the navigation district."; and "Assumption of a pro rata part of the bonded debt of the navigation district." (41st Legis., 1st C.S., Ch. 103, Sec. 3, sen. 2.)

§ 62.298. Election Officials

The commission shall appoint one judge and two clerks for each election box or place to hold the election. The judge and clerks shall be electors in the territory proposed to be annexed and shall reside near the place for holding the election. (41st Legis., 1st C.S., Ch. 103, Sec. 3, sen. 3 (part).)

§ 62.299. Canvass of Vote; Entry of Order

(a) The election judges shall certify the election returns to the commission, and the commission shall canvass the returns.

(b) If a majority of the electors voting at the election favor annexation and assumption of the pro rata part of the bonded debt of the district, the commission shall enter an order in its minutes annexing the territory, and from and after the entry of the order, the annexed territory shall be a part of the district with all the rights, benefits, and burdens of property originally situated in the district.

(c) If a majority of the electors voting at the election favor annexation and the proposition to assume the bonded debt fails to carry, the commission shall enter an order in its minutes annexing the territory to

the district, and from and after the entry of the order, the annexed territory shall be a part of the district with the exception of the assumption of the outstanding bonded indebtedness. The annexed territory shall be subject to a tax for maintenance and operation and shall be liable for all other bonded indebtedness and other indebtedness thereafter legally imposed by the district.

(d) After an order of annexation has been entered in the minutes of the commission, a certified copy of the order shall be prepared by the secretary of the commission and shall include the boundaries of the territory annexed. The secretary shall record the order or have it be recorded in the real estate records of the county or counties in which the territory is located. (41st Legis., 1st C.S., Ch. 103, Sec. 3, sen. 3 (part).)

§ 62.300. Authority to Annex Other Districts

Except as otherwise provided by this subchapter, a district created under Article XVI, Section 59, of the Texas Constitution may be annexed and become a part of another adjacent district created under the general law in the same manner as provided in Sections 62.292–62.299 of this code. (41st Legis., 1st C.S., Ch. 103, Sec. 3, sen. 5 (part).)

§ 62.301. Duties of Commission of Annexed District

If a district proposes to annex an adjacent district, the commission of the district proposed to be annexed shall:

- (1) conduct the hearing;
- (2) order the election;
- (3) canvass the returns of the election; and
- (4) perform the other duties and procedures provided in Sections

62.292–62.299 of this code. (41st Legis., 1st C.S., Ch. 103, Sec. 3, sen. 5 (part).)

§ 62.302. Certification of Election Results

If the election in a district proposed to be annexed results in a majority of the votes of the electors voting at the election favoring annexation, the commission of the district proposed to be annexed shall certify the election result together with the metes and bounds of the district to the commission of the annexing district. (41st Legis., 1st C.S., Ch. 103, Sec. 3, sen. 5 (part).)

§ 62.303. Hearing by Annexing District; Notice

(a) When the election result is certified to the commission of the annexing district, the commission of the annexing district shall conduct a hearing to determine whether or not it will be a benefit to the annexing district to annex the territory.

(b) The hearing shall be conducted after the commission has given five days' notice in some newspaper published in the annexing district.

(c) If it is found at the hearing that the annexation of the adjacent district would be a benefit to the territory of the annexing district, the commission shall enter an order in its minutes annexing the district and from and after the entry of the order, the adjacent district shall be a part of the annexing district with all rights and privileges of territory originally situated in the district. (41st Legis., 1st C.S., Ch. 103, Sec. 3, sen. 5 (part).)

§ 62.304. Assumption of Bonded Debt

(a) Unless a majority of the electors of each of the districts approves it, the annexing district and the district to be annexed may not assume the outstanding bonded debt of the other.

(b) Annexation shall in no way affect the outstanding debt or any other valid obligation of either the annexing district or the district to be annexed. (41st Legis., 1st C.S., Ch. 103, Sec. 3, sen. 5 (part).)

§ 62.305. Levy of Taxes on Annexed District

The commission of the annexing district shall annually levy and collect sufficient taxes in the district to be annexed to discharge all valid outstanding obligations of the district to be annexed. (41st Legis., 1st C.S., Ch. 103, Sec. 3, sen. 5 (part).)

§ 62.306. Dissolution of Annexed District

From and after the entry of the order annexing the district, the annexed district shall be dissolved. All powers previously vested in the annexed district and the commission of the annexed district shall be vested, respectively, in the annexing district and the commission of the annexing district. (41st Legis., 1st C.S., Ch. 103, Sec. 3, sen. 5 (part).)

§ 62.307. Annexation of Whole of Adjacent County

If the territory included inside the boundaries of the annexing district consists of all of a single county and the territory to be annexed consists of all an adjacent county, the adjacent territory may be annexed in the manner provided in Sections 62.291–62.306 of this code, except the commissioners court of the county to be annexed shall:

- (1) conduct the hearing;
- (2) order the election;
- (3) canvass the returns of the election; and
- (4) perform all other duties provided by this subchapter for the commission of the annexing district. (41st Legis., 1st C.S., Ch. 103, Sec. 3a, sen. 1, as added.)

§ 62.308. Hearing

The commissioners court of the county to be annexed shall conduct the hearing at some place inside the county to be annexed. (41st Legis., 1st C.S., Ch. 103, Sec. 3a, sen. 2 (part), as added.)

§ 62.309. Order of Election; Ballots

The commissioners court of the county to be annexed may order an election, as requested in the petition for hearing, on either or both propositions included in the ballot form in Section 62.297 of this code. (41st Legis., 1st C.S., Ch. 103, Sec. 3a, sen. 2 (part), as added.)

§ 62.310. Certification of Election Result

If the proposition or propositions carries by a majority of the vote of the electors voting at the election, the commissioners court of the county to be annexed shall certify the election result to the commission of the annexing district. (41st Legis., 1st C.S., Ch. 103, Sec. 3a, sen. 3 (part), as added.)

§ 62.311. Hearing by Annexing District

After the certification of the election result, and after five days' notice in some newspaper published inside the annexing district, the annexing district shall conduct a public hearing to determine whether or not it would be a benefit to the annexing district to annex the adjacent county. (41st Legis., 1st C.S., Ch. 103, Sec. 3a, sen. 3 (part), as added.)

§ 62.312. Order of Annexation

If at the hearing it appears that annexation of the adjacent county would be a benefit to the annexing district, the commission shall enter an order in the minutes annexing the county. From and after the entry of the order, the county shall be a part of the annexing district with all rights and privileges of territory originally situated in the district and with the right of representation on the commission. (41st Legis., 1st C.S., Ch. 103, Sec. 3a, sen. 3 (part), as added.)

§ 62.313. Obligations not Affected; Pro Rata Assumption

(a) Except as provided in Subsection (b) of this section, annexation shall in no way affect the bonded debt or any other valid outstanding obligation of the annexing district.

(b) If the voters at the annexation election in the county annexed vote to assume a pro rata part of the bonded debt of the annexing district, pro rata assumption shall be binding. If that proposition is not approved by a majority of those electors voting in the election, the persons and property within the county annexed shall never be bound to the payment of any debt of the annexing district outstanding at the time of annexation. (41st Legis., 1st C.S., Ch. 103, Sec. 3a, sen. 3 (part), as added.)

§ 62.314. Additional Commission Members

(a) From and after the entry of the order of annexation, the commission shall be constituted as provided in this section.

(b) The commissioners court of the annexed county shall appoint two commissioners, both of whom shall be electors who reside in the district. The two commission members shall be additional members of the commission of the district and shall have the same duties and receive the same compensation as incumbent commission members.

(c) The additional commission members shall hold office for a term equal to and expiring with the terms of the incumbent commission members or, if the members of the commission are serving staggered terms, expiring with the term of the commission member whose term first expires.

(d) At the expiration of the terms of the additional commission members, the terms of all commission members shall be automatically terminated. (41st Legis., 1st C.S., Ch. 103, Sec. 3a, sen. 3 (part), 4, 5, as added.)

§ 62.315. Change of Membership of Navigation Board

(a) After the annexation, the board shall be composed of the county judges and commissioners courts of the county of the annexing district and of the annexed county.

(b) Each individual member of the board shall be entitled to a vote and a majority in number of the individuals composing the board shall

constitute a quorum. The action of a majority of the quorum shall control. (41st Legis., 1st C.S., Ch. 103, Sec. 3a, sen. 10 (part), 11, 12, 13, as added.)

§ 62.316. Permanent Commission Organization Following Annexation

(a) After the expiration and termination of the terms of commission members as provided for in Section 62.314 of this code, the commission shall be organized as provided by this section.

(b) The commission shall be managed, governed, and controlled by five commission members.

(c) The commissioners courts of the county of the annexing district and of the annexed county shall each, by majority vote, appoint two commission members for a term of two years.

(d) At the expiration of the term of office of each commission member, the commissioners court which appointed that member shall, by majority vote, appoint a successor for a term of two years.

(e) The fifth commission member shall be chairman and shall serve for a term of two years. He shall be selected by a majority vote of the board of the district and appointed by the board.

(f) If any vacancy occurs through the death, resignation, or otherwise of any commission member, it shall be filled as in the first instance by appointment for the unexpired term. (41st Legis., 1st C.S., Ch. 103, Sec. 3a, sen. 6, 7, 8, 9, 10, 18, as added.)

§ 62.317. Provisions Governing Commission

(a) Each commissioner appointed under Section 62.314 or 62.316 of this code shall be an elector of the district and shall serve his full term and until his successor is elected and has qualified unless sooner removed by the authority which appointed him for malfeasance or nonfeasance in office.

(b) Each commissioner shall execute a bond, take the oath, and have the powers and duties prescribed by the law applicable to the annexing district at the time of the annexation.

(c) Each commissioner is entitled to receive the compensation determined by the board.

(d) The commission, by majority vote, may execute all contracts and take all actions relating to governing the district. (41st Legis., 1st C.S., Ch. 103, Sec. 3a, sen. 14, 15, 16, 17, as added.)

§ 62.318. Law Governing District

(a) The only changes made in the organization and operation of an annexing district which annexes an adjacent county are those contained in this subchapter.

(b) Each district annexing an adjacent county shall continue after the annexation to be governed by and subject to all of the laws applicable to the annexing district at the time of annexation. (41st Legis., 1st C.S., Ch. 103, Sec. 3a, sen. 19, 20, as added.)

**CHAPTER 63. SELF-LIQUIDATING NAVIGATION
DISTRICTS**

SUBCHAPTER A. GENERAL PROVISIONS

Section 63.001. Definitions

As used in this chapter:

- (1) "District" means a self-liquidating navigation district.
- (2) "Board" means the navigation board.
- (3) "Commission" means the board of navigation and canal commissioners.
- (4) "Commissioner" means a member of the commission. (New.)

[Sections 63.002–63.020 reserved for expansion]

**SUBCHAPTER B. CREATION OF DISTRICT;
CONVERSION OF DISTRICT**

Section 63.021. Self-Liquidating Districts

(a) All navigation districts organized under the provisions of Article XVI, Section 59, of the Texas Constitution, and the provisions of Chapter 62 of this code, or organized under any local and special law enacted under the provisions of Article XVI, Section 59, of the Texas Constitution, which have voted bonds but have not issued or disposed of the bonds, and all districts organized under the provisions of this chapter are self-liquidating in character and may be made self-supporting and return the construction cost of the district within a reasonable period by tolls, rents, fees, assessments, or other charges other than taxation.

(b) The district shall be considered as coming originally within the scope of this chapter, and the proceedings in Sections 63.039–63.044 of this code are not required as a prerequisite to the exercise of the rights, powers, privileges, and benefits of this chapter. (42nd Legis., 3rd C.S., Ch. 27, Sec. 1, as amended.)

§ 63.022. Creation

A district of the character provided in Section 63.021 of this code may be created as provided in this chapter to operate under the provisions of Article XVI, Section 59, of the Texas Constitution. (42nd Legis., 3rd C.S., Ch. 27, Sec. 2, sen. 1 (part).)

§ 63.023. Area Included in District

A district may include all or part of a village, town, city, road district, drainage district, irrigation district, levee district, other improvement district, conservation and reclamation district, or municipal corporation, but may not include more than all or parts of two counties. (42nd Legis., 3rd C.S., Ch. 27, Sec. 2, sen. 1 (part), 2 (part).)

§ 63.024. Petition to Create Single-County District

(a) To create a district located wholly in one county, a petition signed by 25 of the electors, or if there are fewer than 75 electors in the proposed district, by one-third of them, shall be presented at any regular or special session of the commissioners court of the county in which the land to be included in the district is located.

(b) The petition shall include:

- (1) a request for the establishment of a district;
- (2) a description of the boundaries of the proposed district, accompanied by a map;
- (3) a statement of the general nature of the improvements proposed;
- (4) an estimate of the probable cost; and
- (5) the designation of a name for the district which shall include the name of the county.

(c) A deposit of \$500 and an affidavit stating the qualifications of the petitioners shall accompany the petition. (42nd Legis., 3rd C.S., Ch. 27, Sec. 3, sen. 1 (part).)

§ 63.025. Petition to Create District in Two Counties

(a) If the proposed district is located in two counties, a petition of the nature provided in Section 63.024 shall be presented to the commissioners court of the county which includes the greater part of the district, and this county shall be the county of jurisdiction with relation to all matters concerning the district.

(b) The petition shall be signed by 25 residents in the territory of each county to be included in the proposed district or if there are fewer than 75 residents in the territory of either of the counties, then by one-third of the residents and shall be accompanied by a deposit of \$500.

(c) The name of the district shall include the name of the county which has jurisdiction. (42nd Legis., 3rd C.S., Ch. 27, Sec. 3, sen. 1 (part).)

§ 63.026. Navigation Board

(a) The navigation board shall include the county judge and the members of the commissioners court and the mayor and the aldermen or commissioners of the city or cities. (42nd Legis., 3rd C.S., Ch. 27, Sec. 4, sen. 1 (part).)

(b) A majority in number of the persons composing the board shall constitute a quorum, and the action of a majority of the quorum shall control. (42nd Legis., 3rd C.S., Ch. 27, Sec. 4, sen. 3.)

(c) The board shall pass on the petition to create the district and the election to approve creation of the district with each individual member having one vote. (42nd Legis., 3rd C.S., Ch. 27, Sec. 4, sen. 2.)

(d) The duties and powers of the county judge and members of the commissioners court, the mayor and aldermen or commissioners of cities, and the county clerk and other officers are a part of the legal duties of the officials which they shall perform without additional compensation, unless otherwise provided in this chapter. (42nd Legis., 3rd C.S., Ch. 27, Sec. 7.)

§ 63.027. Hearing

At the same session the petition is presented, the commissioners court shall order a hearing to be held at a regular or special session of the commissioners court, not less than 60 days from the date the petition is presented. (42nd Legis., 3rd C.S., Ch. 27, Sec. 3, sen. 1 (part).)

§ 63.028. Notice of Hearing

(a) The commissioners court shall order the clerk to give notice of the date and place of the hearing by posting a copy of the petition and the order of the commissioners court at the courthouse door and at four other public places inside the boundaries of the proposed district.

(b) If the district is composed of more than one county, the notices provided in Subsection (a) of this section shall be posted in each county.

(c) The notices shall be posted not less than 20 days immediately preceding the day set for the hearing.

(d) The clerk is entitled to receive \$1 for each notice he posts and five cents a mile for each mile necessarily traveled to post the notices. (42nd Legis., 3rd C.S., Ch. 27, Sec. 3, sen. 1 (part), 2.)

§ 63.029. Hearing by Navigation Board

(a) If the proposed district includes all or part of a city acting under special charter granted by the legislature, the hearing shall be held before the board at the regular meeting place of the commissioners court.

(b) The commissioners court shall order a hearing before the board not less than 30 nor more than 60 days from the day the petition is presented without reference to any term of the court, and notice of the hearing shall be given as provided in Section 63.028.

(c) The county clerk shall record the proceedings of the board in the book kept for that purpose, and this record shall be available for public inspection. (42nd Legis., 3rd C.S., Ch. 27, Sec. 4, sen. 1 (part); Sec. 5, 6.)

§ 63.030. Conduct of Hearing

(a) The commissioners court or the board has exclusive jurisdiction to hear and determine all contests and objections to the creation of the proposed district and all matters relating to the creation of the proposed district.

(b) The commissioners court or the board may adjourn the hearing from day to day, and all judgments or decisions shall be final unless otherwise provided in this chapter.

(c) Any person who has taxable property in the proposed district or who might be affected by creation of the district may appear at the hearing and support or oppose creation of the proposed district and may offer testimony relating to:

(1) the necessity and feasibility of the proposed district;

(2) the benefits to accrue from formation of the proposed district;

(3) the boundaries of the proposed district; or

(4) any other matter concerning the proposed district. (42nd Legis., 3rd C.S., Ch. 27, Sec. 8.)

§ 63.031. Findings

(a) If it appears at the hearing that the proposed improvements are feasible and practicable and would be a public benefit and utility, the

commissioners court or the board shall make these findings and approve the boundaries stated in the petition, or if it does not approve the boundaries in the petition, the court or board shall define the boundaries of the district which are approved.

(b) Changes may not be made in the proposed boundaries until notice is given and a hearing held in the manner provided in this subchapter.

(c) If the commissioners court or board finds that the proposed improvement is not feasible or practicable, or that it would not be a public benefit or public utility and that the establishment of the district is unnecessary, the court or board shall make these findings and dismiss the petition at the cost of petitioners. Dismissal of the petition shall not prevent presentation of another petition at a later date.

(d) The commissioners court or the board shall enter all findings in its records or minutes, together with a map of the district if the boundaries in the petition are changed. (42nd Legis., 3rd C.S., Ch. 27, Sec. 9, sen. 1 (part), 2 (part), 3, 4.)

§ 63.032. Providing Funds for Proposed Improvements

(a) If the commissioners court or the board approves the boundaries in the petition or as changed and decides to grant the petition, it shall determine the amount of money necessary for the improvements and all expenses connected with the improvements and whether to issue bonds for the full amount or, in the first instance, for a less amount.

(b) The commissioners court or the board shall specify the amount of bonds to be issued, the maximum term for which the bonds will run, and the rate of interest. (42nd Legis., 3rd C.S., Ch. 27, Sec. 9, sen. 1 (part), 2 (part).)

§ 63.033. Election Order

(a) If the commissioners court or the board finds in favor of the creation of the district, the commissioners court of the county of jurisdiction shall order an election and submit to the electors residing in the district the proposition of whether or not the district shall be created and whether or not the bonds shall be issued and a tax levied sufficient to pay the interest and provide a sinking fund to redeem the bonds at maturity.

(b) The election order shall specify the amount of the bonds to be issued, the term for which the bonds will run, and the rate of interest. (42nd Legis., 3rd C.S., Ch. 27, Sec. 10, sen. 1.)

§ 63.034. Notice of Election

(a) The clerk of the court of jurisdiction shall give notice of the election by posting notices at the courthouse door of the county in which the district is located and at four other public places in the proposed district.

(b) If the district is composed of more than one county, the notices shall be posted in each county.

(c) The notices shall be posted for 30 days immediately preceding the time set for the election. (42nd Legis., 3rd C.S., Ch. 27, Sec. 11, sen. 1 (part).)

(d) The notices shall include:

- (1) the time and place of the election;
- (2) the proposition to be voted on;

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- (3) the purpose for which the bonds are to be issued;
- (4) the amount of the bonds; and
- (5) a copy of the election order. (42nd Legis., 3rd C.S., Ch. 27, Sec. 11, sen. 1 (part), 2.)

§ 63.035. Ballots

The ballots for the election shall be printed to provide for voting for or against: "The navigation district and the issuance of bonds and the levy of a tax to pay for the bonds." (42nd Legis., 3rd C.S., Ch. 27, Sec. 10, sen. 2 (part); Sec. 12, sen. 4.)

§ 63.036. Conduct of Election

The commissioners court shall create and define, by order, the voting precincts in the district and shall name convenient polling places in the precincts. It shall appoint the judges and other necessary election officials and shall hold the election at the earliest legal time. (42nd Legis., 3rd C.S., Ch. 27, Sec. 10, sen. 2 (part); Sec. 12, sen. 3 (part).)

§ 63.037. Returns of Election

(a) Immediately after the election, the officers holding the election shall make returns of the result to the commissioners court of jurisdiction and return the ballot boxes to the clerk of the court.

(b) The clerk shall keep the ballot boxes safely and deliver them, together with the returns of the election, to the commissioners court at its next regular or special session. (42nd Legis., 3rd C.S., Ch. 27, Sec. 13, sen. 1 (part).)

§ 63.038. Declaration of Result

The court shall canvass the vote and return at the session when it receives the ballot boxes and returns of the election. If it finds that a majority of those voting at the election voted in favor of the proposition, the court shall declare the result of the election to be in favor of the district, issuance of the bonds, and the levy of the tax, and shall enter the following declaration in its minutes:

"Commissioners Court of _____ County, Texas, _____ term A.D. _____, in the matter of the petition of _____ and _____ and others praying for the establishment of a navigation district, and issuance of bonds and levy of taxes in said petition described and designated by the name of _____ Navigation District. Be it known that at an election called for the purpose in said district, held on the _____ day of _____ A.D. _____ a majority of the electors voting thereon voted in favor of the creation of said navigation district, and the issuance of bonds and levy of a tax. Now, therefore, it is considered and ordered by the court that said navigation district be, and the same is hereby established by the name of _____ Navigation District, and that bonds of said district in the amount of _____ dollars be issued, and a tax of _____ cents on the \$100, valuation, or so much thereof as may be necessary to be levied upon all property within said navigation district, whether real, personal, mixed or otherwise, sufficient in amount to pay the interest on such bonds and provide a sinking fund to redeem that at maturity, and that if said tax shall at any time become insufficient for such purpose same shall be increased until same is sufficient. The metes and bounds

of said district being as follows: (Giving metes and bounds)." (42nd Legis., 3rd C.S., Ch. 27, Sec. 13, sen. 1 (part), 2.)

§ 63.039. Conversion of District

Any navigation district organized under the provisions of Article XVI, Section 59, of the Texas Constitution, or Article III, Section 52, of the Texas Constitution, and not originally within the scope of this chapter, may be converted into a self-liquidating district operating under this chapter in the manner provided in Sections 63.040–63.044 of this code. (42nd Legis., 3rd C.S., Ch. 27, Sec. 93, sen. 1 (part).)

§ 63.040. Resolution to Convert

(a) The commission, by resolution entered in the minutes, shall declare that in its judgment it is for the best interest of the district and will benefit the land and property in the district to operate under the provisions of this chapter, permitting the district to become self-liquidating and to return the construction cost within a reasonable period by means of tolls, rents, fees, assessments, or other charges other than taxation.

(b) The commission shall designate in the resolution the sections of this chapter under which the district wishes to operate. (42nd Legis., 3rd C.S., Ch. 27, Sec. 93, sen. 1 (part), 2 (part).)

§ 63.041. Notice

(a) Notice of the adoption of a resolution under Section 63.040 of this code shall be given by publishing the resolution in a newspaper with general circulation in the county or counties in which the district is located.

(b) The notice shall be published once a week for two consecutive weeks with the first publication not less than 14 full days before the day set for a hearing.

(c) The notice shall:

(1) state the time and place of the hearing;

(2) set out the resolution in full; and

(3) notify all interested persons to appear and offer testimony for or against the proposal contained in the resolution. (42nd Legis., 3rd C.S., Ch. 27, Sec. 93, sen. 2 (part), 3, 4.)

§ 63.042. Hearing

The hearing may be adjourned from day to day until all interested persons have had an opportunity to appear and present testimony. (42nd Legis., 3rd C.S., Ch. 27, Sec. 93, sen. 5.)

§ 63.043. Findings

(a) If at the hearing the commission finds that conversion of the district into a district operating under this chapter would serve the best interest of the district and would be a benefit to the land and property included in the district, it shall enter an order making this finding.

(b) If the commission finds that the conversion of the district would not serve the best interest of the district and would not be a benefit to the land and property included in the district, it shall enter an order against conversion of the district into one operating under this chapter.

(c) The adverse findings of the commission shall be final and not subject to appeal or review. (42nd Legis., 3rd C.S., Ch. 27, Sec. 93, sen. 6, 7, 8 (part).)

§ 63.044. Effect of Conversion

If the finding of the commission is favorable to the resolution, the commission shall have the same right, power, and authority to act under the provisions of this chapter adopted by the resolution as if the district had originally come within the scope of this chapter. (42nd Legis., 3rd C.S., Ch. 27, Sec. 93, sen. 8 (part).)

[Sections 63.045–63.080 reserved for expansion]

SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

Section 63.081. Appointment of Commissioners

After a district is created, the commissioners court shall appoint three navigation and canal commissioners, whose duties are provided in this chapter. (42nd Legis., 3rd C.S., Ch. 27, Sec. 14, sen. 1 (part).)

§ 63.082. Qualifications

To be qualified for appointment as a commissioner, a person must be a resident of the district, a freehold property taxpayer, and a qualified elector of the county. (42nd Legis., 3rd C.S., Ch. 27, Sec. 14, sen. 1 (part).)

§ 63.083. Vacancies

All vacancies in the office of appointed commissioner occurring through death, resignation, or otherwise shall be filled by the remaining commissioners or, if only one commissioner remains, by the remaining commissioner and the district judge residing in the county in which a majority of the acreage of the district is located. (42nd Legis., 3rd C.S., Ch. 27, Sec. 14, sen. 3.)

§ 63.084. Oath

In addition to the constitutional oath provided for county commissioners, before beginning to perform his duties each appointed commissioner shall take and subscribe before the county judge of the county of jurisdiction an oath to discharge faithfully the duties of his office without favor or partiality. (42nd Legis., 3rd C.S., Ch. 27, Sec. 15.)

§ 63.085. Bond

Before beginning to perform his duties, each appointed commissioner shall execute a good and sufficient bond for \$1,000, payable to the county judge of the county of jurisdiction for the use and benefit of the district, conditioned on the faithful performance of his duties. (42nd Legis., 3rd C.S., Ch. 27, Sec. 16.)

§ 63.086. Term of Office

Each commissioner shall hold office for two years and until his successor has qualified after appointment or election. (42nd Legis., 3rd C.S., Ch. 27, Sec. 14, sen. 2; Sec. 18 (part).)

§ 63.087. Optional Term of Office

(a) The commission may provide by resolution for six-year staggered terms of office for commissioners with the term of one commissioner expiring every two years.

(b) At the first election of commissioners after a resolution is adopted under this section, three commissioners shall be elected. After the commissioners have taken the oath of office and executed bonds, they shall draw lots to determine who will serve for a two-year term, who will serve for a four-year term, and who will serve for a six-year term.

(c) Successors to the commissioners elected under the provisions of Subsection (b) of this section shall serve for full six-year terms. (42nd Legis., 3rd C.S., Ch. 27, Sec. 18-a, as amended.)

§ 63.088. Commission Organization and Quorum

The commission shall organize by electing one of their members chairman and one secretary. Two of the commissioners shall constitute a quorum and a concurrence of two shall be sufficient in all matters relating to the business of the district. (42nd Legis., 3rd C.S., Ch. 27, Sec. 17.)

§ 63.089. Election of Commissioners

An election shall be held in the district on the first Tuesday in December of each even-numbered year to elect three commissioners. (42nd Legis., 3rd C.S., Ch. 27, Sec. 18 (part).)

§ 63.090. Placing Names of Candidates on Ballot

A candidate for commissioner must apply to the secretary at least 20 days before the day of the election to have his name printed on the ballot. Also, a candidate's name may be placed on the ballot by petition of 20 or more qualified electors of the district. (42nd Legis., 3rd C.S., Ch. 27, Sec. 89.)

§ 63.091. Polling Place

The commission shall designate the polling place or places in the election order. If more than one polling place is required, the board shall divide the district into election precincts, which may be changed from time to time. (42nd Legis., 3rd C.S., Ch. 27, Sec. 19, sen. 1 (part), 3 (part).)

§ 63.092. Election Officers

The commission shall appoint the election officers, consisting of one presiding judge, an assistant judge, and two clerks, when the election is ordered. Additional clerks may be appointed by the presiding judge when necessary. (42nd Legis., 3rd C.S., Ch. 27, Sec. 19, sen. 1 (part), 2, 3 (part).)

§ 63.093. Notice of Election

(a) The notice of the election shall be signed by the president and secretary of the commission and shall contain a copy of the election order.

(b) The notice shall be published once a week for three consecutive weeks in a newspaper published in the district or, if a newspaper is not published in the district, in a newspaper located nearest to the boundaries of the district. The first publication shall be made not less than 21 days nor more than 35 days before the day of the election. (42nd Legis., 3rd C.S., Ch. 27, Sec. 20.)

§ 63.094. Conduct of Election

(a) The election officers shall make and deliver the returns in triplicate. One copy shall be retained by the presiding judge, one shall be delivered to the chairman of the commission, and one shall be delivered to the secretary.

(b) The ballot boxes and other election records and supplies shall be delivered to the secretary at the office of the district. All boxes containing voted or mutilated ballots shall be preserved for six months, subject to the order of any court in which an election contest is filed. The ballot boxes shall be destroyed after six months unless a contrary order is entered by a court of competent jurisdiction.

(c) The commission shall meet and canvass the returns of the election not less than five full days nor more than seven days after the election. If the returns cannot be canvassed within seven days, they shall be canvassed as soon as possible after seven days. (42nd Legis., 3rd C.S., Ch. 27, Sec. 21.)

§ 63.095. Vacancies on Commission

(a) A vacancy in the office of elected commissioner shall be filled by appointment by the commission itself for the unexpired term.

(b) If two vacancies occur at the same time, the remaining commissioner shall call a special election to fill the vacancies.

(c) If the remaining commissioner fails to call a special election within 15 days after the vacancies occur, or if the third place is vacant also, the judge of the district court of the judicial district in which the district is located may order the election on the petition of any voter or creditor of the district. The district judge shall fix the date of the election, order the publication of notice of the election by the county clerk, and name the officers to hold the election. The returns of an election held by order of the district judge shall be made and filed in the office of the clerk of the district court, and the clerk shall declare the result of the election. (42nd Legis., 3rd C.S., Ch. 27, Sec. 22.)

§ 63.096. Commissioner's Oath

Each commissioner shall subscribe an oath of office containing the applicable conditions provided by law for members of the commissioners court. (42nd Legis., 3rd C.S., Ch. 27, Sec. 23, sen. 1 (part).)

§ 63.097. Commissioner's Bond

(a) Each commissioner shall execute a good and sufficient bond for \$10,000, payable to the district, conditioned on the faithful performance of his duties.

(b) The commissioner's bond shall be approved by the commission and by the district judge of the district court which has jurisdiction over the territory of the district. (42nd Legis., 3rd C.S., Ch. 27, Sec. 23, sen. 1 (part), 2 (part).)

§ 63.098. Commissioner's Compensation

(a) Each commissioner shall receive a fee of not more than \$10 a day for each day of service necessary to the discharge of his duties, unless otherwise provided.

(b) The commission may provide by an order entered in its minutes that compensation shall not be paid for the commissioners' services for a

period of two years from the date of the order. (42nd Legis., 3rd C.S., Ch. 27, Sec. 25.)

§ 63.099. District Manager

(a) The commission may employ a general manager and give him full authority in the management and operation of the affairs of the district, subject only to the supervision of the commission.

(b) The commission shall fix the term of office and compensation of the manager. (42nd Legis., 3rd C.S., Ch. 27, Sec. 27, sen. 1, 2 (part).)

§ 63.100. District Assessor and Collector

The commission shall appoint one person to the office of assessor and collector for the district. The assessor and collector shall be a qualified elector and a resident of the district. (42nd Legis., 3rd C.S., Ch. 27, Sec. 28, sen. 1 (part), 3.)

§ 63.101. Deputy Assessor and Collector

The commission may appoint one or more deputies to assist the assessor and collector for a period of not more than one year. (42nd Legis., 3rd C.S., Ch. 27, Sec. 28, sen. 4 (part).)

§ 63.102. Assessor and Collector's Bond

(a) The assessor and collector shall execute a good and sufficient bond with at least two sureties, or a surety company having a permit to do business in the state, conditioned on the faithful performance of his duties and on paying to the depository all funds or other things of value coming into his hands as assessor and collector.

(b) The commission shall approve the bond and shall fix the sum, which shall not be less than twice the average daily balance of the district in its depository for the preceding year nor more than the estimated amount of revenue of the district for any one year.

(c) The commission may require additional bonds or a bond in a larger amount or additional security any time it considers it advisable. (42nd Legis., 3rd C.S., Ch. 27, Sec. 28, sen. 1 (part), 2.)

§ 63.103. Deputy's Bond

The assistant or assistants to the assessor and collector appointed by the commission may or may not be required to furnish bond with conditions similar to those required of the assessor and collector. (42nd Legis., 3rd C.S., Ch. 27, Sec. 28, sen. 4 (part).)

§ 63.104. Compensation of Assessor and Collector and Deputy

The commission shall fix the compensation to be paid to the tax assessor and collector or any deputy. (42nd Legis., 3rd C.S., Ch. 27, Sec. 28, sen. 5.)

§ 63.105. Engineer

The commission may employ a competent engineer whose term of office and compensation shall be determined by the commission. (42nd Legis., 3rd C.S., Ch. 27, Sec. 36, sen. 1.)

§ 63.106. Legal Counsel

The commission may employ an attorney to represent the district in preparation of any contract, to conduct any proceeding in or out of court, to be the legal advisor of the commission, and to perform any other function considered necessary. The attorney shall be retained on the terms and for the fees which the commission determines and on which the parties agree. (42nd Legis., 3rd C.S., Ch. 27, Sec. 35, sen. 1 (part); Sec. 73 (part).)

§ 63.107. District Employees

(a) The commission may employ assistant engineers and other persons as it considers necessary for the construction, maintenance, operation, and development of the district, its business and facilities, and shall determine their term of office and duties, and fix their compensation.

(b) All employees may be removed by the commission. (42nd Legis., 3rd C.S., Ch. 27, Sec. 27, sen. 2 (part); Sec. 73 (part); Sec. 80.)

§ 63.108. Bonds of Officers and Employees

(a) Each officer and employee charged with the handling of funds or property of the district shall furnish a good and sufficient bond for a sum sufficient to safeguard the district as determined by the commission. The bond shall be payable to the district and conditioned on the faithful performance of his duties and his accounting of all funds and property of the district coming into his hands.

(b) The bonds of other officers of the district shall be approved by the commission and shall be filed for record in the office of the district. The bonds shall be recorded in a book kept for that purpose in the office of the district, and the book shall be open to the inspection of the public during the office hours of the district. (42nd Legis., 3rd C.S., Ch. 27, Sec. 23, sen. 2 (part); Sec. 24.)

§ 63.109. Payment of Compensation and Expenses

The commission may draw warrants to pay for legal services, for the salaries of the engineer, his assistant, or any other employees, and for all expenses incident and relating to the district. (42nd Legis., 3rd C.S., Ch. 27, Sec. 73 (part).)

§ 63.110. District Office

A regular office shall be maintained for the conduct of the business of the district at a place in the district designated by the commission. (42nd Legis., 3rd C.S., Ch. 27, Sec. 26, sen. 2.)

§ 63.111. District Records

The commission shall keep a true account of its meetings and proceedings and shall preserve its minutes, contracts, notices, accounts, receipts, and records in a fireproof vault or safe. (42nd Legis., 3rd C.S., Ch. 27, Sec. 26, sen. 1.)

§ 63.112. Court Actions

(a) A district established under this chapter may sue and be sued, by and through its commission, in any court in this state in the name of the district.

(b) The courts of this state shall take judicial notice of the establishment of the district. (42nd Legis., 3rd C.S., Ch. 27, Sec. 75.)

[Sections 63.113–63.150 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES

Section 63.151. Authority of District

All districts created under this chapter are essential to the accomplishment of the provisions of Article XVI, Section 59, of the Texas Constitution, and are governmental agencies and bodies politic and corporate, with the powers of government and authority to exercise the rights, privileges, and functions conferred in this chapter and by the Texas Constitution. (42nd Legis., 3rd C.S., Ch. 27, Sec. 2, sen. 2 (part); Sec. 90.)

§ 63.152. Purposes of District

The district may make improvements for:

- (1) the navigation of inland and coastal water;
- (2) the preservation and conservation of inland and coastal water for navigation;
- (3) the control and distribution of storm water and floodwater of rivers and streams in aid of navigation; or
- (4) any purpose stated in Article XVI, Section 59, of the Texas Constitution, necessary or incidental to the navigation of inland and coastal water. (42nd Legis., 3rd C.S., Ch. 27, Sec. 2, sen. 2 (part).)

§ 63.153. General Authority of District

A district may:

- (1) exercise all the rights, powers, and authority granted by this chapter and by the general and special laws relating to navigation districts;
- (2) exercise all powers relating to regulation of wharfage and facilities connected with waterways and ports inside the district to the fullest extent consistent with the Texas Constitution;
- (3) acquire, purchase, own, construct, enlarge, extend, repair, maintain, operate, develop, and regulate land, waterways, improvements, facilities, or aids incident to or necessary in the proper operation and development of ports and waterways in the district, including wharves, docks, warehouses, commercial and industrial buildings, grain elevators, bunkering facilities, belt railroads, floating plants and facilities, lightering facilities, towing facilities, and all appurtenances;
- (4) hire, rent, convey, lease, and otherwise make available to any person the improvements of the district;
- (5) assess and collect charges for use of all facilities acquired or constructed in accordance with this chapter and apply the amounts collected for maintenance and operation of the business of the district, to make the district self-supporting and financially solvent, and to retire the construction cost of the improvements within a reasonable period;
- (6) enter into valid and binding contracts to apply revenues, over and above the maintenance and operation costs, which are derived

from sources other than taxation, to pay principal and interest on bonds;

(7) enter into contracts with the United States for loans and grants on terms and conditions necessary to comply with regulations and requirements of the United States under federal law; and

(8) issue bonds, notes, warrants, certificates of indebtedness, and other forms of obligation payable from revenues derived from improvements and pledge these revenues to the payment of the district's debts in the manner provided in Subchapter E of Chapter 60 of this code. (42nd Legis., 3rd C.S., Ch. 27, Sec. 41, 77 (part), as amended.)

§ 63.154. Authority to Go on Land

The commission and the district engineer, together with all necessary teams, help, tools, instruments, implements, and machinery, may go on any land inside the district to examine the land and make plans, surveys, maps, and profiles without subjecting themselves to action for trespass. (42nd Legis., 3rd C.S., Ch. 27, Sec. 65.)

§ 63.155. Acquisition of Property and Right-of-Way

The commission may acquire by gift, purchase, or condemnation proceedings the necessary right-of-way and property of any kind necessary for improvements contemplated by this chapter. (42nd Legis., 3rd C.S., Ch. 27, Sec. 64.)

§ 63.156. Eminent Domain

(a) The district may exercise the power of eminent domain to condemn and acquire the right-of-way over and through any public or private land necessary to improve any river, bay, creek, or arm of the Gulf of Mexico for the construction and maintenance of any canal or waterway and for any other purpose authorized by this chapter.

(b) The condemnation proceedings shall be instituted under the direction of the commission and in the name of the district, and the damages shall be assessed in conformity with the laws for condemning and acquiring rights-of-way by railroads.

(c) No appeal from the finding and assessment of damages shall have the effect of suspending work by the commission in prosecuting the work of improvement in detail.

(d) No right-of-way can be condemned through any part of an incorporated city or town without the consent of the lawful authorities of the city or town. (42nd Legis., 3rd C.S., Ch. 27, Sec. 63.)

§ 63.157. Authority over Improvements

A district may acquire, purchase, take over, construct, maintain, operate, develop, and regulate wharves, docks, warehouses, grain elevators, bunkering facilities, belt railroads, floating plants, literage, lands, towing facilities, and all other facilities or aids incident to or necessary to the operation or development of ports or waterways inside the district extending to the Gulf of Mexico. (42nd Legis., 3rd C.S., Ch. 27, Sec. 76.)

§ 63.158. Obtaining Consent of United States

If a river, creek, bay, stream, canal, or waterway which is to be improved is navigable or if the improvements are of a type which require

the permission or consent of the United States, the commission may obtain the permission or consent of the United States. (42nd Legis., 3rd C.S., Ch. 27, Sec. 36, sen. 2 (part).)

§ 63.159. Cooperation With the United States

(a) The commission may cooperate and act with the United States in surveys, work, and expenditure of money in any matters relating to construction and maintenance of the canals and the improvement and navigation of navigable rivers, bays, creeks, streams, canals, and waterways.

(b) To the extent that the United States aids in these matters, the commission may agree and consent to the United States entering and taking management and control of the work insofar as necessary or permissible under the laws and regulations of the United States. (42nd Legis., 3rd C.S., Ch. 27, Sec. 36, sen. 2 (part).)

§ 63.160. Duties of Engineer

The engineer shall:

- (1) make necessary surveys, examinations, investigations, maps, plans, and drawings relating to proposed improvements;
- (2) estimate the cost of improvements;
- (3) supervise the work of improvements; and
- (4) perform any duties which might be required by the commission. (42nd Legis., 3rd C.S., Ch. 27, Sec. 36, sen. 2 (part).)

§ 63.161. United States Performing Duties of Engineer

Instead of or in addition to employing an engineer, the commission may adopt any survey of a river, creek, canal, stream, bay, or waterway previously made by the United States and may arrange for surveys, examinations, and investigations of proposed improvements and for supervision of the work of improvement by the United States. (42nd Legis., 3rd C.S., Ch. 27, Sec. 36, sen. 2 (part).)

§ 63.162. District Order for Improvements

If the commission considers it in the best interest for the district to exercise the powers granted by Section 63.153 of this code or if the commission finds that additional improvements to those originally planned or constructed are necessary for navigation of or in aid of navigation of any river, creek, stream, bay, canal, or waterway, the commission shall make this finding in an order entered in the minutes and shall direct the engineer to make an estimate showing the character and cost of the improvements. (42nd Legis., 3rd C.S., Ch. 27, Sec. 42.)

§ 63.163. Notice of Hearing

(a) After the commission's order is entered in the minutes, the commission shall publish notice once a week for three consecutive weeks in a newspaper published in the district. If no newspaper is published in the district, the notice shall be published in the newspaper published nearest to the district.

(b) The notice shall include a copy of the commission's order and shall designate a time and place for a hearing. (42nd Legis., 3rd C.S., Ch. 27, Sec. 43, sen. 1 (part).)

§ 63.164. Hearing on Improvements

(a) The commission shall hear evidence at the hearing, and any district taxpayer or interested person may present evidence.

(b) The commission may adjourn the hearing from day to day for a reasonable time so that all taxpayers and interested persons may be heard. (42nd Legis., 3rd C.S., Ch. 27, Sec. 43, sen. 1 (part).)

§ 63.165. Findings

(a) After the hearing is completed, the commission shall enter its order making findings as to whether or not the improvements and construction of the facilities is feasible and practicable and whether or not benefits will result to the public.

(b) If the findings are against the proposed improvements, no further action will be taken, but if the commission finds that the improvements are feasible and practicable and would be a public benefit, the district may issue bonds to pay for the necessary improvements and facilities. (42nd Legis., 3rd C.S., Ch. 27, Sec. 43, sen. 2 (part).)

§ 63.166. Bond Election

(a) An election shall be held to approve the issuance of the bonds.

(b) The ballots shall be printed to provide for voting for or against the proposition: "The issuance of bonds and the levy of a tax to pay for the bonds."

(c) The returns of the election shall be canvassed as provided in this chapter.

(d) If the canvass indicates that a majority of the electors voted in favor of the proposition, the commission shall issue an order directing the issuance of the bonds and the levy of a tax. (42nd Legis., 3rd C.S., Ch. 27, Sec. 43, sen. 2 (part), 3; Sec. 44; Sec. 45 (part).)

§ 63.167. Form of Bonds

(a) The bonds shall be issued in the manner that other bonds are issued under this chapter, and the amount of the bonds may not be more than the cost of the improvements estimated by the engineer.

(b) The bonds shall be issued in the name of the district and shall be signed by the president of the commission and attested by the secretary with the seal of the district attached.

(c) The bonds shall be issued in the denominations and payable at the times, not more than 40 years, considered most expedient by the board. Interest shall be payable annually or semiannually. (42nd Legis., 3rd C.S., Ch. 27, Sec. 43, sen. 2 (part); Sec. 45 (part).)

§ 63.168. Bids for Contract

(a) Before the commission enters into a contract requiring the expenditure of \$2,000 or more, it shall submit the proposed contract for competitive bids.

(b) The commission may reject any and all bids, and if the contract is for a public improvement, the successful bidder shall be required to give the statutory bonds required by Article 5160, Revised Civil Statutes of Texas, 1925.

(c) The contract shall be awarded to the lowest and best bidder. (42nd Legis., 3rd C.S., Ch. 27, Sec. 66, sen. 1, 2 (part), 3, as amended.)

§ 63.169. Notice of Bids

(a) Notice of the time and place the contract will be awarded shall be published in one or more newspapers with general circulation in the state, one of which shall be a newspaper published in the county in which the district is located if a newspaper is published in the county.

(b) The notice shall be published once a week for two consecutive weeks before the time set for awarding the contract, with the first publication being made at least 14 days before the day for awarding the contract. (42nd Legis., 3rd C.S., Ch. 27, Sec. 66, sen. 2 (part).)

§ 63.170. Application of Certain Sections

The provisions of Sections 63.168–63.169 of this code do not apply to:

- (1) improvements carried out and performed by the United States;
- (2) calamities or emergencies which make it necessary to act at once to preserve the property of the district;
- (3) unforeseen damage to district property, machinery, or equipment or necessary emergency repairs to them; or
- (4) contracts for personal or professional services or work done by the district and paid for by the day as the work progresses. (42nd Legis., 3rd C.S., Ch. 27, Sec. 66, sen. 4, as amended.)

§ 63.171. Procedure for Bids

(a) Any person desiring to bid on the construction of any work advertised shall, on application to the commission, be furnished at actual cost the survey, plans, and estimates for the work.

(b) Bids for the work shall be in writing, sealed, and delivered to the chairman of the commission, together with a certified check for at least five percent of the total amount of the bid.

(c) If the bidder's bid is accepted but he refuses to enter into a proper contract and give a proper bond, the certified check shall be forfeited to the district.

(d) The commission may reject any and all bids. (42nd Legis., 3rd C.S., Ch. 27, Sec. 67.)

§ 63.172. Formal Requirements of Contract

(a) A contract entered into by the district shall be in writing and signed by the contractors and the commissioners or any two of the commissioners.

(b) A copy of the contract shall be filed with the county clerk for reference. (42nd Legis., 3rd C.S., Ch. 27, Sec. 68.)

§ 63.173. Contractor's Bond

The contractor shall execute an adequate bond payable to the commission in the amount of the contract price, conditioned that he will faithfully perform the obligations, agreements, and covenants of the contract and that if he defaults he will pay the district all damages sustained by reason of the default. The bond shall be approved by the commission. (42nd Legis., 3rd C.S., Ch. 27, Sec. 69.)

§ 63.174. Interest in Contract

The members of the board and the engineer may not be directly or indirectly interested for themselves or as agents in a contract for the con-

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struction of a work to be performed by the district. (42nd Legis., 3rd C.S., Ch. 27, Sec. 74.)

§ 63.175. Supervision by Engineer

(a) Unless done under the supervision of the United States, all work contracted for by the commission shall be done under the supervision of the district engineer.

(b) After the work is completed according to the contract, the engineer shall make a detailed report of the work to the commission showing whether or not the contract was fully complied with according to its terms and, if not, in what particulars it has not been complied with. (42nd Legis., 3rd C.S., Ch. 27, Sec. 70.)

§ 63.176. Payment for Work

(a) The commission shall inspect the work being done during its progress, and on completion of the contract, the commission shall draw a warrant on the district depository in favor of the contractor or his assignee for the amount of the contract price. The warrant shall be paid from the construction and maintenance fund.

(b) If the commission considers it advisable, it may contract to pay for the work in partial payments as the work progresses, but the partial payments may not be more in the aggregate than 80 percent of the contract price of the total amount of work done under the contract. The amount of the work shall be shown by a certificate of the engineer.

(c) The provisions of this section do not apply to improvements carried out or performed by the United States. (42nd Legis., 3rd C.S., Ch. 27, Sec. 71.)

§ 63.177. Commission Report

(a) The commission shall make an annual report of its activities and file it with the county clerk on or before January 1 of each year.

(b) The report shall show in detail:

- (1) the kind, character, and amount of work done in the district;
- (2) the cost of the work; and

(3) the amount paid on order, the purpose for which paid, and other data necessary to show the condition of improvements made under the provisions of this chapter. (42nd Legis., 3rd C.S., Ch. 27, Sec. 72.)

§ 63.178. Franchises

(a) A district may grant franchises on property owned or controlled by the district to any person for purposes consistent with this chapter and may charge fees for the franchises.

(b) A franchise may be granted for a period of not more than 30 years.

(c) Before the franchise is granted, the commission must approve the franchise by a majority vote at three separate meetings held at least one week apart and must publish the franchise in full, at the expense of the applicant, once a week for three consecutive weeks in a newspaper published in the district.

(d) The franchise shall require the grantee to file his written acceptance within 30 days from the day the franchise is finally approved.

(e) Fees charged for a franchise may be used to pay interest on bonds or other securities issued by the district for construction of its improvements and to retire these bonds or other securities at maturity.

(f) This section shall not be construed to prevent a district from granting revocable licenses or permits for the use of limited portions of waterfront or facilities for purposes consistent with this chapter. (42nd Legis., 3rd C.S., Ch. 27, Sec. 79.)

§ 63.179. Adjacent Land

(a) The district may own land adjacent or accessible to the navigable water developed by the district and may lease the land to any person and charge reasonable tolls, fees, or other charges.

(b) Proceeds from the tolls, fees, or other charges may be used for maintenance and operation of the business of the district, to make the district self-supporting and financially solvent, and to return the construction cost of the improvements within a reasonable period.

(c) The land may be located in whole or in part inside or outside the boundaries of any incorporated city, town, or village in this state, but land which is not included inside the boundaries of a city, town, or village at the time it is acquired by the district may not be annexed or included inside the boundaries of the city, town, or village without the written consent of the district evidenced by a resolution adopted by the commission. (42nd Legis., 3rd C.S., Ch. 27, Sec. 78, as amended.)

§ 63.180. Issuance of Writs

A writ of mandamus shall issue from a court of competent jurisdiction to compel the commission to apply revenue in accordance with the terms of a contract with the United States, and an injunction may be issued to restrain the commission from violating the provisions of a contract with the United States. (42nd Legis., 3rd C.S., Ch. 27, Sec. 77 (part).)

§ 63.181. Peace Officers

The district may appoint three peace officers to protect life and property in the district and the property of the district. The officers shall have the same rights, powers, and authority as policemen of a city or town. (42nd Legis., 3rd C.S., Ch. 27, Sec. 81, sen. 1 (part), 2.)

§ 63.182. Effect on Police Powers

The provisions of this chapter shall not affect or repeal the police powers of any municipality inside the district or any law, ordinance, or regulation which authorizes the municipality to exercise police power over any navigable stream, aid to navigation, or facility for navigation in the district. (42nd Legis., 3rd C.S., Ch. 27, Sec. 81, sen. 1 (part).)

§ 63.183. Other Laws Governing District

The commission has the same rights, powers, and duties provided for commissioners in Articles 8248–8257, Revised Civil Statutes of Texas, 1925. (42nd Legis., 3rd C.S., Ch. 27, Sec. 82.)

[Sections 63.184–63.220 reserved for expansion]

SUBCHAPTER E. GENERAL FISCAL PROVISIONS

Section 63.221. Construction and Maintenance Fund

(a) The construction and maintenance fund shall include money received from the sale of bonds and other sources except the tax and other collections deposited in the sinking fund and used to pay interest on the bonds.

(b) All expenses incurred in connection with the creation, establishment, and maintenance of the district after the original petition to create the district is filed shall be paid from the construction and maintenance fund. (42nd Legis., 3rd C.S., Ch. 27, Sec. 50 (part).)

§ 63.222. District Depository

The district depository shall be designated at the time, in the manner, and under the same regulations and laws as county depositories, and the district's funds shall be deposited in the depository. (42nd Legis., 3rd C.S., Ch. 27, Sec. 40.)

§ 63.223. Warrants

District funds shall be handled under orders of the commission on warrants drawn for designated purposes, and no warrant may be paid unless it is signed by at least two members of the commission. (42nd Legis., 3rd C.S., Ch. 27, Sec. 39.)

§ 63.224. Accounts and Records; Audit

(a) A complete book of all accounts and records shall be kept by the district.

(b) In January of each year or as soon after that time as practicable, the county auditor or, in the discretion of the commission, an independent certified public accountant or firm of independent certified public accountants shall be employed to make a complete audit of the books and records and make a report of the findings.

(c) The audit report shall be made in triplicate, and one copy shall be filed with the district office, one with the district depository, and one with the county auditor's office. (42nd Legis., 3rd C.S., Ch. 27, Sec. 84, as amended; Sec. 85.)

§ 63.225. Deposit

(a) When the petition to create the district is filed, it shall be accompanied by a \$500 deposit, which shall be held by the county clerk until the result of the election to create the district is declared and entered in the minutes of the commissioners court.

(b) If the result of the election favors the creation of the district, the county clerk shall return the \$500 deposit to the signers of the petition or their agent or attorney.

(c) If the result of the election is against the creation of the district, the county clerk shall pay the costs and expenses of the proposed district up to and including the election from the \$500 deposit on vouchers signed by the county judge and shall return the balance of the deposit, if any, to the signers of the petition or their agent or attorney. (42nd Legis., 3rd C.S., Ch. 27, Sec. 50 (part).)

§ 63.226. Debt

(a) The district may retire the original cost of construction of its improvements or pay for the cost of construction by borrowing money and pledging and mortgaging land, wharves, docks, warehouses, grain elevators, bunkering facilities, belt railroads, floating plants, lighterage, towing facilities, and other facilities or aids incident or necessary to the operation or development of ports or waterways.

(b) The district may issue its debentures or other evidences of debt secured by a mortgage for the length of time and a rate of interest of not more than eight percent a year. In addition, the district may secure the debentures, notes or other evidences of debt with bonds of the district. (42nd Legis., 3rd C.S., Ch. 27, Sec. 86.)

§ 63.227. Retiring Debt

Debentures, notes, or other evidences of debt may be retired by rents, tolls, fees, or charges other than taxes. The debt also may be retired by assessments against taxable property in the district which is equitably distributed on the basis of benefits derived by the property from district improvements. (42nd Legis., 3rd C.S., Ch. 27, Sec. 87.)

[Sections 63.228–63.250 reserved for expansion]

SUBCHAPTER F. BOND PROVISIONS**Section 63.251. Levy of Tax**

After bonds have been voted, the commission shall levy a tax on all taxable property in the district sufficient to pay principal of and interest on the bonds and shall annually levy and have assessed and collected on the taxable property of the district an amount sufficient to pay for the expense of assessing and collecting the taxes. (42nd Legis., 3rd C.S., Ch. 27, Sec. 37.)

§ 63.252. Form of Bonds

(a) Bonds issued under the provisions of this chapter shall be issued in the name of the district and shall be signed by the chairman of the commission and attested by the secretary, with the district's seal affixed to each bond.

(b) The bonds shall be issued in the denominations and payable annually or semiannually at the time or times, not more than 40 years from their date, that the commission considers most expedient. (42nd Legis., 3rd C.S., Ch. 27, Sec. 38.)

§ 63.253. Approval of Bonds by Attorney General

(a) Before bonds are offered for sale, the district shall present to the attorney general a certified copy of all the minutes of commission proceedings relating to the issuance of the bonds, including:

(1) a copy of the notices of hearing and election, together with a certified return of each notice;

(2) a certified copy of the commission's order levying a tax to pay principal of and interest on the bonds;

(3) a statement of the total bonded indebtedness of the district, including the series of bonds and the assessed value of property for the purpose of taxation as shown by the last official assessment of the district; and

(4) any other information which the attorney general requires.

(b) The attorney general shall carefully examine the bonds in connection with the constitution, laws relating to the execution of the bonds, and the facts.

(c) If the attorney general finds that the bonds were issued in conformity with the constitution and laws and that they are valid and binding obligations of the district, he shall certify the bonds. (42nd Legis., 3rd C.S., Ch. 27, Sec. 46.)

§ 63.254. Registration of Bonds

After the bonds are examined and certified by the attorney general, they shall be registered by the comptroller in a book kept for that purpose, and the certificate of the attorney general shall be preserved in the record to be used in the event of litigation. (42nd Legis., 3rd C.S., Ch. 27, Sec. 47, sen. 1.)

§ 63.255. Validity of Bonds

(a) After the bonds are certified by the attorney general and registered by the comptroller, they shall be held prima facie valid and binding obligations in every action, suit, or proceeding in which their validity is brought into question.

(b) In any action brought to enforce collection of the bonds or interest on the bonds, the certificate of the attorney general or a certified copy of the certificate shall be received as prima facie evidence of the validity of the bonds and their coupons, and the only defense that can be offered against the validity of the bonds or coupons is forgery or fraud. (42nd Legis., 3rd C.S., Ch. 27, Sec. 47, sen. 2, 3.)

§ 63.256. Sale of Bonds

(a) After the bonds are registered, the chairman of the commission shall offer them for sale and shall sell the bonds on the best terms and for the best price possible.

(b) As the bonds are sold, the money received for them shall be paid to the district depository to the credit of the district. (42nd Legis., 3rd C.S., Ch. 27, Sec. 49.)

§ 63.257. Bond Record

(a) After bonds are issued, the board shall procure and deliver to the secretary of the district a well-bound book for recording the bonds.

(b) The record kept in the book shall include:

- (1) the bonds and their numbers;
- (2) the amount of the bonds;
- (3) the interest rate;
- (4) the date of issuance;
- (5) the date the bonds become due;
- (6) the place where the bonds are payable;
- (7) the amount received for each bond; and
- (8) the tax levy to pay interest and provide a sinking fund.

(c) The bond record shall be available for public inspection by all interested parties in the district.

(d) On payment of a bond, an entry of the payment shall be made in the bond record. (42nd Legis., 3rd C.S., Ch. 27, Sec. 48.)

[Sections 63.258–63.280 reserved for expansion]

SUBCHAPTER G. TAX PROVISIONS

Section 63.281. Bond Tax

(a) After bonds have been voted, the commission shall levy and have assessed and collected improvement taxes on all taxable property inside the district.

(b) The tax shall be in an amount which is sufficient to pay the principal of and interest on the bonds. (42nd Legis., 3rd C.S., Ch. 27, Sec. 51 (part).)

§ 63.282. Maintenance and Operation Tax

The commission may levy and have assessed and collected for the maintenance, operation, and upkeep of the district and its improvements an annual tax of not more than 10 cents on the \$100 valuation on all taxable property in the district. (42nd Legis., 3rd C.S., Ch. 27, Sec. 51 (part).)

§ 63.283. Funds from Sources Other Than Taxes

The district may pay interest on and principal of the bonds and pay the costs of maintenance, operation, and upkeep with revenue from tolls, rents, fees, or charges other than taxation or with assessments made on the property in the district on the basis of benefit derived. (42nd Legis., 3rd C.S., Ch. 27, Sec. 51 (part).)

§ 63.284. Laws Governing Taxes

Except as provided in this chapter, the laws relating to levy, assessment, and collection of state and county taxes shall apply to levy, assessment, and collection of district taxes and to all officers involved in the levy, assessment, and collection of district taxes. (42nd Legis., 3rd C.S., Ch. 27, Sec. 32, sen. 1 (part).)

§ 63.285. Assessor and Collector Governed by State and County Tax Law

The assessor and collector shall assess and collect taxes on all taxable property in the district, and the property shall be governed by the law relating to state and county taxes. (42nd Legis., 3rd C.S., Ch. 27, Sec. 29, 33 (part).)

§ 63.286. Rendition of Property

(a) The assessor and collector shall compile a record of all taxpayers and all taxable property in the district, and the post-office address of the owners of the property.

(b) On or before April 1 of each year, the assessor and collector shall furnish each taxpayer and owner of property in the district a blank form on which to render his property for taxation. The form may be delivered

personally or may be delivered by mail addressed to the owner at his last known address.

(c) On or before April 30 of each year, the owner of property subject to taxation shall file in the office of the assessor and collector a complete statement made under oath of the property owned by him and the true value of the property. The oath of the taxpayer shall be the same oath required for rendition of property for state and county taxes.

(d) The rendition statement may be filed by an authorized agent of the property owner if the agent states in the rendition statement that he is acting as an agent. (42nd Legis., 3rd C.S., Ch. 27, Sec. 30, sen. 1, 2, 3, 4, 5, 6.)

§ 63.287. Property Which Is not Rendered for Taxes

(a) Any property which is not rendered for taxes by the owner or his authorized agent shall be placed on the tax rolls of the district as unrendered in the name of "Unknown Owner."

(b) The assessor and collector shall estimate the value of the unrendered property and place the estimated valuation on the tax rolls. (42nd Legis., 3rd C.S., Ch. 27, Sec. 30, sen. 7.)

§ 63.288. Board of Equalization

(a) Not later than the first regular meeting each year, the commission shall appoint three persons who are electors of the district to be commissioners on the board of equalization and shall designate the time for the meeting of the board of equalization.

(b) The board of equalization shall meet at the time fixed by the commission to receive the assessment lists or books of the district for examination, correction and equalization, appraisalment, and approval.

(c) The secretary of the commission shall act as secretary for the board of equalization and shall keep a permanent record of the proceedings of the board of equalization. (42nd Legis., 3rd C.S., Ch. 27, Sec. 30, sen. 8.)

§ 63.289. Oath of Members of Board of Equalization

(a) Before beginning to perform the duties of the board of equalization, each member shall take the following oath: "I _____ do solemnly swear (or affirm) that I will, to the best of my ability, make a full and complete examination, correction, equalization, and appraisalment of all property contained in the district as shown by the assessment lists or books of the assessor and collector and add all property not included of which I have knowledge."

(b) The oath shall be entered in the minutes by the secretary. (42nd Legis., 3rd C.S., Ch. 27, Sec. 31, sen. 1.)

§ 63.290. Meetings of Board of Equalization

The board of equalization shall convene not later than the first Monday in June of each year and shall complete its work by September 1 or as soon after that time as possible. (42nd Legis., 3rd C.S., Ch. 27, Sec. 31, sen. 2.)

§ 63.291. Lien

(a) The district shall have a lien on all property against which taxes are levied and assessed and may enforce the lien in the same manner as liens securing state and county taxes.

(b) Limitation does not run against the district to bar the collection of delinquent taxes or other public charges of the district. (42nd Legis., 3rd C.S., Ch. 27, Sec. 32, sen. 1 (part), 2 (part).)

§ 63.292. Duty of the Assessor and Collector

The assessor and collector shall be charged with the assessment rolls of the district and is required to collect all taxes levied and assessed against property in the district and shall pay the proceeds to the district depository. (42nd Legis., 3rd C.S., Ch. 27, Sec. 33 (part).)

§ 63.293. Delinquent Taxes

During September of each year, the assessor and collector shall make a certified list of all delinquent property on which taxes are owed and have not been paid and shall return this list to the commission, which shall have the taxes collected by sale of the delinquent property in the manner provided by law for sale of property for collection of state and county taxes. (42nd Legis., 3rd C.S., Ch. 27, Sec. 34 (part).)

§ 63.294. Attorney to Collect Delinquent Taxes

(a) On or before October 1 of each year, the commission shall employ an attorney to collect delinquent taxes or public charges and to file suits to collect delinquent taxes, if necessary.

(b) The attorney is entitled to a fee of 10 percent of the amount of the delinquent taxes or other delinquent charges collected by him or through his efforts or paid to the district after suit is filed. The fees shall be charged as costs of court, and if a judgment is entered, the district shall have judgment for the attorney's fees together with the tax or public charge and other costs. (42nd Legis., 3rd C.S., Ch. 27, Sec. 34 (part), 35, sen. 1 (part).)

§ 63.295. Suit to Collect Delinquent Taxes

Suits to collect delinquent taxes shall be filed and tried as other civil cases, and except as provided in this chapter, the laws governing tax suits for the recovery of state and county taxes shall apply. (42nd Legis., 3rd C.S., Ch. 27, Sec. 35, sen. 1 (part), 2.)

§ 63.296. District Purchase of Delinquent Property

At the sale of property for delinquent taxes, the commission may purchase the property for the benefit of the district. (42nd Legis., 3rd C.S., Ch. 27, Sec. 34 (part).)

§ 63.297. Authority of County Officers

Nothing in this chapter shall be construed to give any county officer authority over the levy, assessment, and collection of district taxes. These duties shall remain wholly in the control of the district officers. (42nd Legis., 3rd C.S., Ch. 27, Sec. 32, sen. 2 (part).)

[Sections 63.298–63.320 reserved for expansion]

SUBCHAPTER H. ASSESSMENTS

Section 63.321. Assessments to Retire Debt

Assessments which are equitably distributed against property in the district may be used to pay the cost of making improvements and to pay principal of and interest on bonds, notes, debentures, or other evidences of debt issued by the district for improvements. (42nd Legis., 3rd C.S., Ch. 27, Sec. 52.)

§ 63.322. Order to Retire Debt by Assessments

If the commission decides to retire bonds and other evidences of debt by equitably distributed assessments against the property in the district, it shall enter an order with its findings in the minutes of its proceedings. (42nd Legis., 3rd C.S., Ch. 27, Sec. 53, sen. 1 (part).)

§ 63.323. Notice of the Order and Hearing

(a) The commission shall publish notice once a week for three consecutive weeks in a newspaper in the district or, if no newspaper is published in the district, in the newspaper published nearest to the district.

(b) The notice shall include a copy of the order and shall set a date for a hearing at which all property owners and persons interested in the district and the improvements may appear and contest the assessments and offer evidence for or against the assessments before the commission. (42nd Legis., 3rd C.S., Ch. 27, Sec. 53, sen. 1 (part).)

§ 63.324. Hearing Procedure

(a) All protests, contests, and objections at the hearing shall be presented in writing.

(b) The commission shall summon witnesses when requested to do so and take testimony with reference to the protests, contests, and objections.

(c) The hearing may be adjourned from day to day until all proponents or contestants of the assessments have had full opportunity to present evidence. (42nd Legis., 3rd C.S., Ch. 27, Sec. 53, sen. 2, 3.)

§ 63.325. Findings

The commission shall enter its findings after the hearing, and if it finds against the proposition of assessments, no further action shall be taken in the matter. (42nd Legis., 3rd C.S., Ch. 27, Sec. 54 (part).)

§ 63.326. Tax Roll

(a) If the commission finds in favor of levying assessments, it shall direct the assessor and collector of the district to prepare a roll of all the taxable property in the district in the same manner as assessment for ad valorem taxes.

(b) The assessor and collector shall make an assessment in the proportion of cost to be borne by each item of property on the tax rolls, basing the proportion of cost on benefits to be derived from the improvements by the property and the owner of the property. (42nd Legis., 3rd C.S., Ch. 27, Sec. 54 (part).)

§ 63.327. Board of Equalization

The completed tax roll shall be submitted to the board of equalization, which shall sit and act in all respects as when sitting as a board of equalization for the equalization of the bond taxes. (42nd Legis., 3rd C.S., Ch. 27, Sec. 54 (part).)

§ 63.328. Notice of Hearing by Board of Equalization

Notice of the hearing by the board of equalization shall be published once a week for three consecutive weeks in a newspaper published in the district or, if no newspaper is published in the district, in the newspaper published nearest to the district. (42nd Legis., 3rd C.S., Ch. 27, Sec. 54 (part).)

§ 63.329. Hearing by Board of Equalization

The owners of property shall have the same opportunity to present evidence as in hearings before the board of equalization for equalizing bond taxes. All interested persons shall have an opportunity to appear and present evidence as to the benefits or lack of benefits to property in which they are interested. (42nd Legis., 3rd C.S., Ch. 27, Sec. 54 (part).)

§ 63.330. Findings of Board of Equalization

After all hearings are completed, the board of equalization shall report its findings to the commission for acceptance or disapproval. (42nd Legis., 3rd C.S., Ch. 27, Sec. 54 (part).)

§ 63.331. Disapproval of Findings

If the commission refuses to approve the tax rolls, it shall hold hearings on all items not approved in the manner provided for the board of equalization. (42nd Legis., 3rd C.S., Ch. 27, Sec. 54 (part).)

§ 63.332. Effect of Approval of Findings

The approval of the findings of the board of equalization and the tax rolls as finally fixed shall be conclusive except in cases of fraud or the failure to equitably distribute the assessments. (42nd Legis., 3rd C.S., Ch. 27, Sec. 54 (part).)

§ 63.333. Personal Obligation; Lien

An assessment is a personal obligation of the property owner against whom the assessment is made, and the district has a lien against the assessed taxable property. (42nd Legis., 3rd C.S., Ch. 27, Sec. 55.)

§ 63.334. Assessment Fund

(a) The assessments shall be paid to the assessor and collector and shall be kept by him in a separate fund known as the "Assessment Fund."

(b) Payments out of the fund shall be made to retire the bonds, notes, debentures, or other evidences of debt of the district on vouchers drawn by the commission each year on the maturity of the indebtedness.

(c) The vouchers shall be signed by at least two members of the commission. (42nd Legis., 3rd C.S., Ch. 27, Sec. 56.)

§ 63.335. Errors in Assessments

(a) An error, mistake, or formality in the assessment or in any step or proceeding prerequisite to the assessment shall not invalidate the assessment, but the commission may correct the error at all times.

(b) An error or mistake in describing any parcel or item of property or the name of any owner of property shall not invalidate the assessment, but it shall have full force and effect against the premises and the real and true owner. (42nd Legis., 3rd C.S., Ch. 27, Sec. 58, sen. 1, 2.)

§ 63.336. Reassessment

(a) If, in the opinion of the commission, an error, mistake, or invalidity exists in any proceeding with reference to the improvements or assessments, it shall correct the error, mistake, or invalidity and reassess the property and the owners of the property.

(b) The reassessment shall be made after the same notice and hearing as provided for the making of an original assessment. The commission in making the reassessment shall take into consideration any enhancement or depreciation in the value of the property assessed and shall make the reassessment on a basis of equalization and the equitable distribution of benefits to the property with respect to all other property in the district.

(c) A reassessment shall not be made later than three years from the date of the original assessment except in the case of fraud or undisclosed ownership of property. (42nd Legis., 3rd C.S., Ch. 27, Sec. 58, sen. 3, 4, 5.)

§ 63.337. Suit to Set Aside or Correct Assessment

(a) A property owner with an assessment or reassessment against him or his property may bring suit within 20 days after the assessment or reassessment in any court with jurisdiction to set aside or correct the assessment or reassessment or any proceeding with reference to the assessment or reassessment due to any error or invalidity.

(b) The cost of a suit to set aside or correct an assessment or reassessment shall be paid by the loser of the litigation.

(c) After the 20-day period following the assessment or reassessment, the owner or his heirs, assigns, or successors do not have a right of action or a defense of invalidity of the assessment or reassessment in any action in which the assessment or reassessment is in question, except in case of fraud. (42nd Legis., 3rd C.S., Ch. 27, Sec. 61.)

§ 63.338. Delinquent Assessments

(a) Not later than August 1 of each year, the assessor and collector shall prepare a delinquent roll showing all delinquencies in the payment of the assessments.

(b) The assessor and collector shall post the delinquent roll in the district office for at least 20 days. (42nd Legis., 3rd C.S., Ch. 27, Sec. 57 (part).)

§ 63.339. Suit for Collection

(a) After the delinquent roll has been posted in the district office for 20 days, the attorney for the district may file suit for collection in any court with jurisdiction.

(b) An attorney's or collection fee of 10 percent on the amount of principal and interest due at the time of filing the suit shall accrue

against the property owner and shall be charged as costs of court. The attorney's or collection fee is collectible against the property owner and the property from the date of the filing of the suit.

(c) The suit shall be filed and prosecuted as tax suits for the collection of state and county taxes, except that the attorney for the district shall file and prosecute the suit instead of the county attorney or other public official.

(d) It is not necessary in the suit to specifically plead and prove the orders, notices, rules, and regulations of the commission relating to the assessment or reassessment. It is sufficient for the petition or other pleading to allege that the proceedings with reference to the making of the improvements and the assessments or reassessments were held in compliance with the law and that all prerequisites to the fixing of the assessment lien on the assessed property and the personal liability of the owner were performed. (42nd Legis., 3rd C.S., Ch. 27, Sec. 57 (part), 60.)

§ 63.340 Sale of Property to Satisfy Judgment

The district may purchase any property at a sale to satisfy a judgment in favor of the district on a delinquent assessment or reassessment, if the district is the best bidder. (42nd Legis., 3rd C.S., Ch. 27, Sec. 62.)

§ 63.341. Rules and Regulations

The commission may adopt any necessary rules, regulations, and orders, which are not inconsistent with the provisions of this chapter, for the purpose of carrying out the provisions of the chapter relating to assessments, reassessments, and the collection of assessments. (42nd Legis., 3rd C.S., Ch. 27, Sec. 59.)

Sec. 2. **Repealer.** The following laws, as amended, are repealed:

V.A.C.S.		Session Law Citation			
Art.	Legis.	Sess.	Vol.	Ch.	Sec.
5421h-1	40th			1, p. 704	
5421h-2	57th			115	
6020b	60th			355	
7466					
7466a-7466d	30th			117	
7466e	41st	1 C.S.			
7466e-1	46th		Sp.L.	p. 531	
7466f	51st			30	
7466g	51st			380	
7466h	52nd			153	
7466i	53rd			63	
7467					
7467c					
7468-7470					
7470b	53rd			354	
7471-7472					
7472a-7472d	42nd			128	3-6
7472d-1	55th	1 C.S.		11	
7472e	54th			47	
7473-7477					
7477a	53rd			357	3
7477b	50th			568	
7477c	61st			207	
7477d	61st			564	
7489					
7492					
7493-7495					
7500					
7500a	39th			136	5
7501-7511					
7513-7515					
7515a	53rd			355	4
7516-7519					
7519a-7519b	53rd			352	
7520-7533					
7535-7537					
7537a	41st	2 C.S.		37	1
7537b	55th			362	1
7538-7542					
7542a	60th			45	
7543-7544					
7547					
7547a	61st			262	
7548-7550					
7550a	55th			241	
7551					
7554-7563					
7565-7568					
7570-7576					
7578-7583					
7585-7589					
7589a	40th			56	
7589b	55th			458	
7590-7612					

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V.A.C.S.	Session Law Citation				
	Art.	Legis.	Sess.	Vol.	Ch. Sec.
7612a		30th			136 6
7612b		54th			114 3
7613-7621					
7621b		57th			82
7621d-1		60th			313
7621g		60th			97
7622					
7622b		47th			403
7622b-1		55th			346
7623-7625					
7625a-7625c		39th			205 2
7626-7641					
7642-7652					
7652a		44th			293
7653					
7653a-7653b					
7654-7656					
7656a		56th	2 C.S.		15
7657-7675					
7675a		39th			152 4
7676-7683					
7683a		39th			152 2
7684					
7685-7700					
7700a					
7701-7716					
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7761a		39th			152 6
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7795-7807					
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7807e		43rd			131
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7880-37a		60th			741
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7880-125a	50th			295	2
7880-126a-7780-126b	42nd	3 C.S.		23	
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8176a ¹⁴	45th	2 C.S.		28	
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8247b	44th			134	
8247b-1	57th			486	
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8258-8263					

14. Also amended by Chapter 825, § 1,
p. 2506.

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8280-9b	61st			157	
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848a	42nd			261	
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Sec. 3. **Conforming Amendment.** Article 7477, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

"Art. 7477. Initial terms for members of COMMISSION

"The terms of office for the initial members of the Texas Water Rights Commission are as follows:

"(1) the person appointed for the term beginning in August, 1963, shall serve for a period ending February 1, 1969;

"(2) the person appointed to the term beginning in August, 1965, shall serve for a period ending February 1, 1971; and

"(3) the person appointed to the term beginning August, 1967, shall serve for a period ending February 1, 1973."

Sec. 4. **Conforming Amendment.** Article 8120, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

"Art. 8120. Compensation of COMMISSIONERS in certain counties

"(a) In all counties having a population of more than seventy-five thousand (75,000) and less than ninety thousand (90,000) inhabitants according to the last preceding or any future Federal Census, and having one (1) or more Drainage Districts therein, and having an assessed valuation for county tax purposes of Two Hundred Forty-five Million Dollars (\$245,000,000) or more, the Commissioners Courts of such counties, upon application therefor in writing by the Commissioners of Drainage Districts located in such counties showing the necessity therefor, may allow Commissioners of such Drainage Districts for work thereafter to be done and services thereafter to be performed an additional sum not to exceed Two Dollars and Fifty Cents (\$2.50) per day, and such Courts may upon written application therefor permit an automobile or automobiles to be used by such Commissioners in the discharge of their

15. Also amended by Chapter 1011, § 4, p. 3050.

duties and allow not to exceed Seven Dollars and Fifty Cents (\$7.50) per day for their use, expense, oil, gas, repairs and upkeep of each automobile so permitted to be used; provided that such Courts, after having heard such petitions, may deny or grant the same in whole or in part, and shall enter their written orders in the premises fixing the amount of such allowance or allowances within the limits aforesaid, stating the reasons and necessity therefor, and fixing the number of days in which allowances are to be in effect.

"(b) This Article shall apply to any Drainage District in this State heretofore or hereafter organized under the provisions of Section 52, Article III, Constitution of Texas, which District has heretofore or shall hereafter, be converted into a Conservation and Reclamation District under Section 59, Article XVI, Constitution of Texas, and which District lies wholly within one (1) county."

Sec. 5. Saving Provision. (a) The enactment of this code does not affect the validity or change the effect of Subsection 6, Chapter 293, Acts of the 44th Legislature, Regular Session, 1935 (Article 7652a, Vernon's Texas Civil Statutes); Section 146, Chapter 25, Acts of the 39th Legislature, Regular Session, 1925 (Article 7880-146, Vernon's Texas Civil Statutes); and Section 2, Chapter 760, Acts of the 61st Legislature, Regular Session, 1969.

(b) The enactment of this code shall not repeal or affect any other laws passed by the 62nd Legislature.

(c) In determining the effect of any provision of this code, the effective date of the provision shall be considered to be the same as the effective date of its statutory source. The purpose of this exception is to preserve the effect of any statute not expressly repealed by Section 2 of this Act.

Sec. 6. Emergency. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each house be suspended, and this Rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on March 2, 1971: Yeas 140, Nays 2 and 1 present not voting; and that the House concurred in Senate amendments March 29, 1971, by a non-record vote; passed by the Senate, as amended, on March 24, 1971, by a viva-voce vote.

Approved April 12, 1971.

Effective Aug. 30, 1971, 90 days after date of adjournment.