

PRELIMINARY DRAFT

TEXAS LEGISLATIVE COUNCIL
Special District Local
Laws Code
Chapter 9079
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19	CHAPTER 9079. FORT HANCOCK WATER CONTROL AND IMPROVEMENT DISTRICT	
20	OF HUDSPETH COUNTY	
21	SUBCHAPTER A. GENERAL PROVISIONS	
22	<u>Revised Law</u>	
23	Sec. 9079.0001. DEFINITIONS. In this chapter:	
24	(1) "Board" means the district's board of directors.	
25	(2) "Director" means a board member.	
26	(3) "District" means the Fort Hancock Water Control	

1 and Improvement District of Hudspeth County. (Acts 57th Leg., R.S.,
2 Ch. 78, Sec. 3; New.)

3 Source Law

4 Sec. 3. It is determined and found by the
5 Legislature that the said district shall be hereafter
6 known as "Fort Hancock Water Control and Improvement
7 District of Hudspeth County, Texas."

8 Revisor's Note

9 The definitions of "board" and "director" are
10 added to the revised law for drafting convenience and
11 to eliminate frequent, unnecessary repetition of the
12 substance of the definitions.

13 Revised Law

14 Sec. 9079.0002. FINDINGS OF PUBLIC USE AND BENEFIT. (a)
15 The district is created to serve a public use and benefit.

16 (b) All land and other property included in the district
17 will benefit from the works and projects accomplished by the
18 district under the powers conferred by Section 59, Article XVI,
19 Texas Constitution. (Acts 57th Leg., R.S., Ch. 78, Sec. 9.)

20 Source Law

21 Sec. 9. It is expressly determined and found
22 that all of the land and other property included within
23 the area and boundaries of the district will be
24 benefited by the works and projects which are to be
25 accomplished by the district pursuant to the powers
26 conferred by the provisions of Article XVI, Section
27 59, of the Constitution of Texas, and that said
28 district was and is created to serve a public use and
29 benefit.

30 Revised Law

31 Sec. 9079.0003. DISTRICT TERRITORY. The district is
32 composed of the territory described by Section 5, Chapter 78, Acts
33 of the 57th Legislature, Regular Session, 1961, as that territory
34 may have been modified under:

- 35 (1) Subchapter J, Chapter 49, Water Code;
36 (2) Subchapter O, Chapter 51, Water Code; or
37 (3) other law. (New.)

38 Revisor's Note

39 The revision of the law governing the district

1 does not revise the statutory language describing the
2 territory of the district to avoid the lengthy
3 recitation of the description and because that
4 description may not be accurate on the effective date
5 of the revision or at the time of a later reading. For
6 the reader's convenience, the revised law includes
7 references to the statutory description of the
8 district's territory and to statutory authority to
9 change the district's territory under Subchapter J,
10 Chapter 49, Water Code, applicable to the district
11 under Sections 49.001 and 49.002 of that chapter, and
12 Subchapter O, Chapter 51, Water Code, applicable to
13 water control and improvement districts. The revised
14 law also includes a reference to the general authority
15 of the legislature to enact other laws to change the
16 district's territory.

17 SUBCHAPTER B. BOARD OF DIRECTORS

18 Revised Law

19 Sec. 9079.0051. NOTICE OF DIRECTORS' ELECTION. Notice of a
20 directors' election shall be posted in three or more public places
21 in the district for at least 14 days before the date of the
22 election. (Acts 57th Leg., R.S., Ch. 78, Sec. 4 (part).)

23 Source Law

24 Sec. 4. . . . Notice of directors election,
25 required by the General Laws relating to water control
26 and improvement districts to be held on the second
27 Tuesday in January of each year, shall be given by
28 posting proper notice thereof at three public places
29 within the district for at least fourteen (14) days
30 prior to the date of such election.

31 Revisor's Note

32 Section 4, Chapter 78, Acts of the 57th
33 Legislature, Regular Session, 1961, refers to regular
34 directors' elections being held on the second Tuesday
35 in January of each year in compliance with applicable
36 general law. The revised law omits this provision as
37 superseded by the 1995 enactment of Section 49.103,

1 Water Code, applicable to the district under Sections
2 49.001, 49.002, and 49.103(e), Water Code. Section
3 49.103(b), Water Code, requires the election of the
4 appropriate number of directors to be held on the
5 uniform election date in May of even-numbered years.
6 Section 49.103(e), Water Code, provides that the
7 provisions of Sections 49.103(a) and (b) take
8 precedence over all prior statutory enactments.

9 Revised Law

10 Sec. 9079.0052. DIRECTOR'S BOND. Each director shall give
11 bond in the amount of \$1,000 for the faithful performance of the
12 director's duties. (Acts 57th Leg., R.S., Ch. 78, Sec. 4 (part).)

13 Source Law

14 Sec. 4. . . . each shall give bond in the amount
15 of One Thousand Dollars (\$1,000.00) for the faithful
16 performance of his duties,

17 Revisor's Note

18 (1) Section 4, Chapter 78, Acts of the 57th
19 Legislature, Regular Session, 1961, requires each
20 director to subscribe to the constitutional oath of
21 office. The revised law omits that provision because
22 Section 1, Article XVI, Texas Constitution, requires
23 all officers to take the oath (or affirmation) before
24 assuming office. The omitted law reads:

25 Sec. 4. . . . All directors elected
26 or appointed after the effective date of
27 this Act shall subscribe to the
28 constitutional oath of office, and

29 (2) Section 4, Chapter 78, Acts of the 57th
30 Legislature, Regular Session, 1961, requires the
31 district to pay the cost of a director's bond. The
32 revised law omits that provision because it duplicates
33 in substance part of Section 49.055(c), Water Code.
34 Chapter 49 applies to the district under Sections
35 49.001 and 49.002, Water Code. The omitted law reads:

36 Sec. 4. . . . the cost of which bonds
37 shall be paid by the district. . . .

1 SUBCHAPTER C. POWERS AND DUTIES

2 Revised Law

3 Sec. 9079.0101. GENERAL POWERS AND DUTIES. The district
4 has the rights, powers, privileges, and duties provided by general
5 law applicable to a water control and improvement district created
6 under Section 59, Article XVI, Texas Constitution, including
7 Chapters 49 and 51, Water Code. (Acts 57th Leg., R.S., Ch. 78, Sec.
8 10 (part).)

9 Source Law

10 Sec. 10. The district shall have and exercise,
11 and is hereby vested with all of the rights, powers,
12 privileges, and duties conferred and imposed by the
13 General Laws of this state now in force or hereafter
14 enacted applicable to water control and improvement
15 districts created under the authority of Section 59,
16 Article 16, of the Constitution of Texas; but

17 Revisor's Note

18 (1) Section 10, Chapter 78, Acts of the 57th
19 Legislature, Regular Session, 1961, states that the
20 district "shall have and exercise, and is hereby
21 vested with" certain rights, powers, privileges, and
22 duties. The revised law substitutes "has" for the
23 quoted language because, in context, the terms are
24 synonymous and "has" is more commonly used.

25 (2) Section 10, Chapter 78, Acts of the 57th
26 Legislature, Regular Session, 1961, states that the
27 district has the rights, powers, privileges, and
28 duties "conferred and imposed" by general law. The
29 revised law substitutes "provided" for the quoted
30 language because regardless of whether a right, power,
31 privilege, or duty is "conferred" or "imposed" by
32 general law, it is not necessary to characterize in the
33 revised law the nature of the granting of that
34 authority. In context, "provided" is synonymous with
35 "conferred and imposed" and "provided" is more
36 commonly used.

37 (3) Section 10, Chapter 78, Acts of the 57th

1 Legislature, Regular Session, 1961, refers to the
2 general laws of this state "now in force or hereafter
3 enacted." The revised law omits the quoted language as
4 unnecessary under accepted general principles of
5 statutory construction. The reference to the general
6 laws means those laws "in force" at the time the
7 provision was adopted. It is unnecessary to state that
8 the district may be granted additional powers by later
9 enacted laws because those laws would apply on their
10 own terms.

11 (4) Section 10, Chapter 78, Acts of the 57th
12 Legislature, Regular Session, 1961, refers to the
13 general laws "applicable to water control and
14 improvement districts." For the reader's convenience,
15 the revised law adds references to Chapter 49, Water
16 Code, applicable to the district under Sections 49.001
17 and 49.002 of that chapter, and to Chapter 51, Water
18 Code, applicable to water control and improvement
19 districts.

20 (5) Section 10, Chapter 78, Acts of the 57th
21 Legislature, Regular Session, 1961, provides that the
22 act prevails over general law in case of a conflict or
23 other inconsistency and that all general laws
24 applicable to water control and improvement districts
25 not in conflict or inconsistent with the provisions of
26 the act are incorporated by reference. The revised law
27 omits the portion of the provision relating to the act
28 prevailing over general law because it duplicates in
29 substance Section 311.026(b), Government Code (Code
30 Construction Act). The revised law omits the portion
31 of the provision relating to incorporation of general
32 laws because the portion of Section 10, Chapter 78,
33 revised as this section already provides that those
34 laws apply to the district, and it is unnecessary to

1 further incorporate those laws in this chapter. The
2 omitted law reads:

3 Sec. 10. [The district shall have
4 . . . all of the rights, powers,
5 privileges, and duties conferred and
6 imposed by the General Laws of this state
7 . . . applicable to water control and
8 improvement districts . . . but] to the
9 extent that the provisions of any such
10 General Laws may be in conflict or
11 inconsistent with the provisions of this
12 Act, the provisions of this Act shall
13 prevail. All such General Laws are hereby
14 incorporated by reference with the same
15 effect as if incorporated in full in this
16 Act.

17 Revised Law

18 Sec. 9079.0102. COST OF RELOCATING OR ALTERING PROPERTY.
19 If the district's exercise of a power granted under this chapter
20 makes necessary relocating, raising, rerouting, changing the grade
21 of, or altering the construction of a highway, railroad, electric
22 transmission line, telephone or telegraph property or facility, or
23 pipeline, the necessary action shall be accomplished at the sole
24 expense of the district. (Acts 57th Leg., R.S., Ch. 78, Sec. 9a.)

25 Source Law

26 Sec. 9a. In the event that the district, in the
27 exercise of any powers granted herein, makes necessary
28 the relocation, raising, rerouting, or changing the
29 grade of, or altering the construction of any highway,
30 railroad, electric transmission line, telephone or
31 telegraph properties and facilities, or pipeline, all
32 such necessary relocation, raising, rerouting,
33 changing of grade or alteration of construction shall
34 be accomplished at the sole expense of the district.

35 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

36 Revised Law

37 Sec. 9079.0151. TAX METHOD. (a) The district shall use the
38 ad valorem plan of taxation, and taxes levied by the district must
39 be on the ad valorem basis.

40 (b) A hearing on a plan of taxation is not required. (Acts
41 57th Leg., R.S., Ch. 78, Sec. 8.)

42 Source Law

43 Sec. 8. The ad valorem plan of taxation is
44 hereby adopted for the district and all taxes
45 hereafter levied by the district shall be on an ad
46 valorem basis and no hearing shall be required on a

1 plan of taxation.

2 Revisor's Note

3 (1) Section 8, Chapter 78, Acts of the 57th
4 Legislature, Regular Session, 1961, provides that the
5 ad valorem plan of taxation "is hereby adopted" for the
6 district. The revised law omits the portion of the
7 provision relating to the adoption of the ad valorem
8 plan of taxation as executed.

9 (2) Section 8, Chapter 78, Acts of the 57th
10 Legislature, Regular Session, 1961, refers to "all
11 taxes hereafter levied." The revised law omits
12 "hereafter" because Section 311.022, Government Code
13 (Code Construction Act), provides that a statute
14 operates prospectively unless expressly made
15 retrospective.

16 SUBCHAPTER E. BONDS

17 Revised Law

18 Sec. 9079.0201. AUTHORITY TO ISSUE BONDS. (a) The district
19 may issue bonds if authorized by a majority of district voters
20 voting at an election held for that purpose.

21 (b) The district may issue bonds for any purpose permitted
22 to a water control and improvement district. (Acts 57th Leg., R.S.,
23 Ch. 78, Sec. 6 (part).)

24 Source Law

25 Sec. 6. The district is authorized to issue
26 bonds of the district for any and all purposes
27 permitted to water control and improvement districts
28 when such bonds shall have first been authorized by a
29 majority of the resident qualified property tax-paying
30 voters of the district who own taxable property in the
31 district and who have duly rendered the same for
32 taxation, voting at an election held within the
33 district for that purpose. . . .

34 Revisor's Note

35 Section 6, Chapter 78, Acts of the 57th
36 Legislature, Regular Session, 1961, refers to a
37 majority vote of the "resident qualified property
38 tax-paying voters of the district who own taxable

1 property in the district and who have duly rendered the
2 same for taxation." The revised law omits the
3 reference to "resident qualified . . . voters" as
4 unnecessary in this context because Chapter 11,
5 Election Code, governs eligibility to vote in an
6 election in this state and allows only qualified
7 voters who are residents of the territory covered by
8 the election to vote in an election. The revised law
9 also omits the reference to voting by persons who own
10 taxable property and render that property for taxation
11 because in Hill v. Stone, 421 U.S. 289 (1975), the
12 United States Supreme Court determined that property
13 ownership as a qualification for voting is an
14 unconstitutional denial of equal protection.

15 Revised Law

16 Sec. 9079.0202. NOTICE OF BOND ELECTION. Notice of a bond
17 election must be posted at three public places in the district for
18 at least 14 days before the date of the election. (Acts 57th Leg.,
19 R.S., Ch. 78, Sec. 6 (part).)

20 Source Law

21 Sec. 6. . . . Notice of any such bond election
22 shall be given by posting proper notice thereof at
23 three public places within the district for at least
24 fourteen (14) days prior to said election.

25 Revisor's Note
26 (End of Chapter)

27 (1) Section 1, Chapter 78, Acts of the 57th
28 Legislature, Regular Session, 1961, validates certain
29 commissioners court actions relating to the Fort
30 Hancock Municipal Water District of Hudspeth County,
31 the predecessor to the Fort Hancock Water Control and
32 Improvement District of Hudspeth County. The revised
33 law omits the validation because it served its purpose
34 on the date it took effect and is executed law.
35 Section 311.031(a)(2), Government Code (Code
36 Construction Act), provides that the repeal of a

1 statute does not affect any validation previously made
2 under the statute. Therefore, the omission of the
3 executed validation provision does not affect the
4 validation. The omitted law reads:

5 Sec. 1. All acts and proceedings of
6 the Commissioners Court of Hudspeth County,
7 Texas, in creating the Fort Hancock
8 Municipal Water District of Hudspeth
9 County, Texas, including that certain order
10 of said Commissioners Court passed on the
11 17th day of July, 1952, establishing said
12 district, be, and the same are hereby in all
13 respects validated, ratified and confirmed.

14 (2) Section 2, Chapter 78, Acts of the 57th
15 Legislature, Regular Session, 1961, validates certain
16 actions relating to the Fort Hancock Municipal Water
17 District of Hudspeth County, the predecessor to the
18 Fort Hancock Water Control and Improvement District of
19 Hudspeth County. The revised law omits the validation
20 for the reason stated in Revisor's Note (1). The
21 omitted law reads:

22 Sec. 2. The district, all
23 proceedings, including all hearings and
24 elections and notices thereof, heretofore
25 had in connection with the establishment of
26 said district, the election of directors
27 therefor, the issuance of notes of said
28 district, the Board of Directors of the
29 district and all actions of the Board of
30 Directors heretofore taken, be, and the
31 same are hereby in all respects validated,
32 ratified and confirmed.

33 (3) Section 4, Chapter 78, Acts of the 57th
34 Legislature, Regular Session, 1961, provides for the
35 board of directors of the Fort Hancock Municipal Water
36 District of Hudspeth County to be appointed the
37 initial directors of the Fort Hancock Water Control
38 and Improvement District of Hudspeth County and to
39 serve until their successors have been elected and
40 have qualified. The revised law omits these
41 provisions as executed. The omitted law reads:

42 Sec. 4. The directors now
43 constituting the Board of Directors of the
44 Fort Hancock Municipal Water District of

1 Hudspeth County, Texas, be, and they are
2 hereby appointed as directors for the Fort
3 Hancock Water Control and Improvement
4 District of Hudspeth County, Texas, and
5 they shall serve until the next regular
6 directors election on the second Tuesday in
7 January, 1962, and until their successors
8 have duly qualified by making bond and
9 taking the oath of office. . . .

10 (4) Section 7, Chapter 78, Acts of the 57th
11 Legislature, Regular Session, 1961, provides that a
12 confirmation election and a hearing on the exclusion
13 of land are unnecessary. The revised law omits the
14 provision as executed. The provision addresses the
15 applicability of provisions of the general laws in
16 effect at the time of the district's creation that
17 governed the creation of water control and improvement
18 districts. A district created under the general laws
19 in effect at that time would have been required at the
20 time of its creation to hold both a confirmation
21 election and a hearing on the exclusion of land from
22 the district. The omitted provision negates those
23 general law requirements as inapplicable to this
24 district. The power or duty to hold a hearing to
25 exclude land subsequent to the creation of the
26 district is governed by Subchapter J, Chapter 49,
27 Water Code, which applies to the district under
28 Sections 49.001 and 49.002 of that code, and
29 Subchapter O, Chapter 51, Water Code, applicable to
30 water control and improvement districts. The omitted
31 law reads:

32 Sec. 7. No election shall be
33 necessary for the purpose of confirming the
34 organization of the district and no hearing
35 shall be necessary to determine whether any
36 lands or property included within the
37 boundaries of the district shall be
38 excluded.

39 (5) Section 11, Chapter 78, Acts of the 57th
40 Legislature, Regular Session, 1961, provides that the
41 act is severable. The revised law omits that provision

1 because the same result is produced by application of
2 Section 311.032, Government Code (Code Construction
3 Act), which provides that a provision of a statute is
4 severable from each other provision of the statute
5 that can be given effect. The omitted law reads:

6 Sec. 11. If any word, phrase, clause,
7 paragraph, sentence, part, portion or
8 provision of this Act, or the application
9 thereof to any person or circumstance,
10 shall be held to be invalid or
11 unconstitutional, such holding shall not
12 affect the validity of the remaining
13 portions of this Act; and the Legislature
14 hereby declares it would have passed such
15 remaining portions despite such invalidity.