

PRELIMINARY DRAFT

TEXAS LEGISLATIVE COUNCIL
Special District Local
Laws Code
Chapter 8511
12/2/20

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16		SUBCHAPTER A. GENERAL PROVISIONS	
17		<u>Revised Law</u>	
18	Sec. 8511.0101.	DEFINITIONS. Unless the context otherwise	
19		requires, in this chapter:	
20		(1) "Authority" means the Nueces River Authority.	
21		(2) "Board" means the authority's board of directors.	
22		(3) "Commission" means the Texas Commission on	
23		Environmental Quality.	
24		(4) "Development board" means the Texas Water	
25		Development Board.	
26		(5) "Director" means a board member.	
27		(6) "State" means the State of Texas or any of its	
28		agencies, departments, boards, political subdivisions, or other	
29		entities.	
30		(7) "Waste" means sewage, industrial waste, municipal	
31		waste, recreational waste, agricultural waste, waste heat, solid	
32		waste, or any other waste. (Acts 44th Leg., 1st C.S., Ch. 427,	
33		Secs. 1.02(1), (2), (4), (6), (7), (8); New.)	

1 Source Law

2 Sec. 1.02. In this Act, unless the context
3 requires a different definition:

4 (1) "Authority" means the Nueces River
5 Authority.

6 (2) "Board" means the board of directors
7 of the Nueces River Authority.

8 (4) "State" means the State of Texas or any
9 of its agencies, departments, boards, political
10 subdivisions, or other entities.

11 (6) "Commission" means the Texas
12 Commission on Environmental Quality.

13 (7) "Development board" means the Texas
14 Water Development Board.

15 (8) "Waste" means sewage, industrial
16 waste, municipal waste, recreational waste,
17 agricultural waste, waste heat, solid waste, or any
18 other waste.

19 Revisor's Note

20 (1) Section 1.02(3), Chapter 427, Acts of the
21 44th Legislature, 1st Called Session, 1935, defines
22 "person." The revised law omits the definition
23 because it duplicates, in substance, the definition of
24 "person" provided by Section 311.005(2), Government
25 Code (Code Construction Act). The omitted law reads:

26 (3) "Person" includes an
27 individual, corporation, organization,
28 government or governmental subdivision or
29 agency, business trust, estate, trust,
30 partnership, association, and any other
31 legal entity.

32 (2) Section 1.02(5), Chapter 427, Acts of the
33 44th Legislature, 1st Called Session, 1935, defines
34 "United States." The revised law omits the definition
35 because it duplicates, in substance, the definition of
36 "United States" provided by Section 311.005(9),
37 Government Code (Code Construction Act). The omitted
38 law reads:

39 (5) "United States" includes
40 department, bureau, and any other agency of
41 the United States of America.

42 (3) The definition of "director" is added to the
43 revised law for drafting convenience and to eliminate
44 frequent, unnecessary repetition of the substance of

1 the definition.

2 Revised Law

3 Sec. 8511.0102. NATURE OF AUTHORITY. (a) The authority is:

4 (1) a conservation and reclamation district under
5 Section 59, Article XVI, Texas Constitution; and

6 (2) a municipality.

7 (b) The authority's creation is essential to accomplish the
8 purposes of Section 59, Article XVI, Texas Constitution. (Acts
9 44th Leg., 1st C.S., Ch. 427, Sec. 2.01 (part).)

10 Source Law

11 Sec. 2.01. Under the authority of Article XVI,
12 Section 59 of the Texas Constitution, the Nueces River
13 Authority is a conservation and reclamation district,
14 which is a governmental agency, body politic and
15 corporate, and a municipality The creation of
16 the authority is found to be essential to accomplish
17 the purposes of Article XVI, Section 59 of the Texas
18 Constitution.

19 Revisor's Note

20 Section 2.01, Chapter 427, Acts of the 44th
21 Legislature, 1st Called Session, 1935, refers to the
22 authority as a conservation and reclamation district,
23 "which is a governmental agency, body politic and
24 corporate." The revised law omits the quoted language
25 because it duplicates part of Section 59(b), Article
26 XVI, Texas Constitution.

27 Revised Law

28 Sec. 8511.0103. PURPOSE OF CHAPTER. The purpose of this
29 chapter is to provide by the means and in the manner authorized in
30 this chapter for the conservation and development of this state's
31 natural resources inside the Nueces River Basin, including:

32 (1) the control, storage, preservation, and
33 distribution of this state's water for domestic and municipal uses,
34 industrial uses, irrigation, mining and recovery of minerals, stock
35 raising, underground water recharge, electric power generation,
36 navigation, recreation and pleasure, and other beneficial uses and
37 purposes;

1 (2) the reclamation and irrigation of arid, semiarid,
2 and other land needing irrigation;

3 (3) the reclamation and drainage of overflowed land
4 and other land needing drainage;

5 (4) the maintenance and enhancement of the quality of
6 the water in the Nueces River Basin;

7 (5) the conservation and development of the forests,
8 water, and hydroelectric power;

9 (6) the navigation of inland and coastal water; and

10 (7) the provision of systems, facilities, and
11 procedures for the collection, transportation, handling,
12 treatment, and disposal of waste. (Acts 44th Leg., 1st C.S., Ch.
13 427, Sec. 1.01.)

14 Source Law

15 Sec. 1.01. The purpose of this Act is to provide
16 by the means and in the manner authorized in this Act
17 for the conservation and development of the state's
18 natural resources within the Nueces River Basin,
19 including:

20 (1) the control, storage, preservation,
21 and distribution of the state's water for domestic and
22 municipal uses, industrial uses, irrigation, mining
23 and recovery of minerals, stock raising, underground
24 water recharge, electric power generation,
25 navigation, recreation and pleasure, and other
26 beneficial uses and purposes;

27 (2) the reclamation and irrigation of
28 arid, semiarid, and other land needing irrigation;

29 (3) the reclamation and drainage of
30 overflowed land and other land needing drainage;

31 (4) the maintenance and enhancement of the
32 quality of the water in the Nueces River Basin;

33 (5) the conservation and development of
34 the forests, water, and hydroelectric power;

35 (6) the navigation of inland and coastal
36 water; and

37 (7) providing systems, facilities, and
38 procedures for the collection, transportation,
39 handling, treatment, and disposal of waste of all
40 types.

41 Revised Law

42 Sec. 8511.0104. REVIEW SCHEDULE UNDER SUNSET ACT. A review
43 of the authority under Section 325.025, Government Code, shall be
44 conducted as if the authority were a state agency scheduled to be
45 abolished September 1, 2031, and every 12th year after that year.
46 (Acts 44th Leg., 1st C.S., Ch. 427, Sec. 1.02A(a) (part).)

1 Source Law

2 (a) . . . The review shall be conducted under
3 Section 325.025, Government Code, as if the authority
4 were a state agency scheduled to be abolished
5 September 1, 2031, and every 12th year after that year.

6 Revisor's Note

7 Sections 1.02A(a) and (b), Chapter 427, Acts of
8 the 44th Legislature, 1st Called Session, 1935, relate
9 to a periodic review of the authority by the Sunset
10 Advisory Commission. Section 1.02A(a) provides in
11 part that the authority is subject to review under
12 Chapter 325, Government Code, as if it were a state
13 agency but may not be abolished under that chapter.
14 Section 1.02A(b) provides that the authority must pay
15 the costs associated with the Sunset Advisory
16 Commission's review of the authority. The revised law
17 omits those provisions because they duplicate Sections
18 325.025(a), (b), and (d), Government Code. The
19 omitted law reads:

20 Sec. 1.02A. (a) The authority is
21 subject to review under Chapter 325,
22 Government Code (Texas Sunset Act), but may
23 not be abolished under that chapter. . . .

24 (b) The authority shall pay the cost
25 incurred by the Sunset Advisory Commission
26 in performing the review. The Sunset
27 Advisory Commission shall determine the
28 cost, and the authority shall pay the amount
29 promptly on receipt of a statement from the
30 Sunset Advisory Commission detailing the
31 cost.

32 Revised Law

33 Sec. 8511.0105. TERRITORY. (a) The authority is composed
34 of the territory described by Section 2.02(a), Chapter 427, Acts of
35 the 44th Legislature, 1st Called Session, 1935, as that territory
36 may have been modified under:

37 (1) Subsection (c) or its predecessor statute, Section
38 2.02(c), Chapter 427, Acts of the 44th Legislature, 1st Called
39 Session, 1935;

40 (2) Subchapter J, Chapter 49, Water Code; or

41 (3) other law.

1 (b) The board shall record in the authority's minutes the
2 written description of the boundaries in Section 2.02(a), Chapter
3 427, Acts of the 44th Legislature, 1st Called Session, 1935.

4 (c) If the directors find any land included in the field
5 notes, other than land in San Patricio, Nueces, and Jim Wells
6 Counties, that is not actually included in the watershed of the
7 Nueces River, the board shall exclude the land from the authority
8 and file a certificate of exclusion with the county clerk of the
9 county in which the land is located. The certificate of exclusion
10 must describe the boundaries of the land excluded so that the land
11 remaining in the authority may be adequately identified.

12 (d) The boundaries and field notes of the authority form a
13 closure. A mistake in the field notes or in copying the field notes
14 in the legislative process does not affect:

15 (1) the authority's organization, existence, or
16 validity;

17 (2) the authority's right to issue any type of bond for
18 a purpose for which the authority is created or to pay the principal
19 of or interest on the bond;

20 (3) the right to impose a tax; or

21 (4) the legality or operation of the authority or its
22 governing body. (Acts 44th Leg., 1st C.S., Ch. 427, Secs. 2.02(b),
23 (c); Acts 64th Leg., R.S., Ch. 699, Sec. 5; Acts 69th Leg., R.S.,
24 Ch. 665, Sec. 3; New.)

25 Source Law

26 [Acts 44th Leg., 1st C.S., Ch. 427, Sec. 2.02]

27 (b) The written description of the boundaries in
28 Subsection (a) of this section shall be recorded by the
29 board in the minutes of the authority.

30 (c) If the directors find any land included in
31 the field notes other than land in San Patricio,
32 Nueces, and Jim Wells counties, which is not actually
33 included in the watershed of the Nueces River, the
34 board shall exclude the land from the authority and
35 file a certificate of exclusion with the county clerk
36 of the county in which the land is located. The
37 certificate of exclusion shall describe the boundaries
38 of the land excluded so that the land remaining in the
39 authority may be adequately identified.

40 [Acts 64th Leg., R.S., Ch. 699]

41 Sec. 5. The legislature finds and determines

1 that the boundaries and field notes of the Nueces River
2 Authority form a closure. If any mistake is made in
3 copying the field notes in the legislative process, or
4 a mistake is otherwise made in the field notes, it
5 shall in no way affect the organization, existence,
6 and validity of the authority, or the right of the
7 authority to issue any type of bonds or refunding bonds
8 for the purpose for which the authority is created, or
9 to pay the principal of or interest on the bonds, or
10 the right to assess, levy, and collect taxes, or in any
11 other manner affect the legality or operation of the
12 authority or its governing body.

13 [Acts 69th Leg., R.S., Ch. 665]

14 Sec. 3. The legislature finds and determines
15 that the boundaries and field notes of the Nueces River
16 Authority form a closure. If any mistake is made in
17 copying the field notes in the legislative process or a
18 mistake is otherwise made in the field notes, the
19 mistake in no way affects the organization, existence,
20 and validity of the authority or the right of the
21 authority to issue any type of bonds or refunding bonds
22 for the purpose for which the authority is created or
23 to pay the principal of or interest on the bonds or the
24 right to assess, levy, and collect taxes or in any
25 other manner affects the legality or operation of the
26 authority or its governing body.

27 Revisor's Note

28 (1) The revised law does not revise the
29 statutory language describing the authority's
30 territory to avoid the lengthy recitation of the
31 description and because that description may not be
32 accurate on the effective date of the revision or at
33 the time of a later reading. For the reader's
34 convenience, the revised law includes references to
35 the statutory description of the authority's territory
36 and to the statutory authority to change the
37 authority's territory under Subsection (c) of this
38 section, Section 2.02(c), Chapter 427, Acts of the
39 44th Legislature, 1st Called Session, 1935, from which
40 Subsection (c) of this section was derived, and
41 Subchapter J, Chapter 49, Water Code, applicable to
42 the authority under Sections 49.001 and 49.002 of that
43 chapter. The revised law also includes a reference to
44 the general authority of the legislature to enact
45 other laws to change the authority's territory.

46 (2) Section 5, Chapter 699, Acts of the 64th

1 Legislature, Regular Session, 1975, and Section 3,
2 Chapter 665, Acts of the 69th Legislature, Regular
3 Session, 1985, provide that a mistake in the field
4 notes' description of the authority's boundaries does
5 not affect the authority's right to issue "any type of
6 bonds or refunding bonds." The revised law omits the
7 references to "refunding bonds" because refunding
8 bonds are included in the meaning of "any type of
9 bonds."

10 (3) Section 5, Chapter 699, Acts of the 64th
11 Legislature, Regular Session, 1975, and Section 3,
12 Chapter 665, Acts of the 69th Legislature, Regular
13 Session, 1985, refer to the authority's authority to
14 "assess, levy, and collect" taxes. Throughout this
15 chapter, the revised law substitutes "impose" for
16 "assess, levy, and collect" or other similar language
17 because "impose" is the term generally used in Title 1,
18 Tax Code, and includes the assessment, levy, and
19 collection of a tax.

20 Revised Law

21 Sec. 8511.0106. LIBERAL CONSTRUCTION OF CHAPTER. This
22 chapter shall be liberally construed to achieve its purposes.
23 (Acts 44th Leg., 1st C.S., Ch. 427, Sec. 1.03 (part).)

24 Source Law

25 Sec. 1.03. This Act shall be liberally
26 construed to achieve its purposes, and

27 Revisor's Note

28 (1) Section 1.03, Chapter 427, Acts of the 44th
29 Legislature, 1st Called Session, 1935, provides that
30 any grant of power contained in that act shall be held
31 in specification but not in limitation of general
32 powers. The revised law omits the provision as
33 unnecessary because it is an accepted general
34 principle of statutory construction that a grant of a

1 power does not act as a limitation. The omitted law
2 reads:

3 Sec. 1.03. . . . any particular
4 grant of power contained in this Act shall
5 be held in specification but not in
6 limitation of general powers. . . .

7 (2) Section 1.03, Chapter 427, Acts of the 44th
8 Legislature, 1st Called Session, 1935, provides in
9 part that the provisions of the act are wholly
10 sufficient authority within themselves for the
11 performance of all acts and procedures authorized in
12 the act, without reference to any other law or any
13 restrictions or limitations contained in another law.

14 The revised law omits the statement that the
15 provisions of the act are wholly sufficient authority
16 within themselves for the performance of all acts and
17 procedures authorized in the act because it is
18 unnecessary. The operative provisions of the act are
19 fully effective on their own terms.

20 The revised law omits the statement that other
21 laws or restrictions or limitations contained in those
22 laws do not apply because it is both unnecessary and
23 potentially misleading. An accepted general principle
24 of statutory construction requires a statute to be
25 given cumulative effect with other statutes unless it
26 provides otherwise or unless the statutes are in
27 conflict. To the extent the statement means the act
28 prevails over other law in existence at the time the
29 act became effective and with which the act conflicts,
30 the statement merely restates general rules of
31 statutory construction. To the extent the statement
32 implies that the act prevails over future enactments
33 of the legislature that may conflict with it, it is
34 misleading. It is a fundamental principle of
35 statutory construction that one session of the

1 legislature may not bind a future session of the
2 legislature. In addition, Section 311.026, Government
3 Code (Code Construction Act), governs the
4 interpretation of the revised law in instances of
5 apparent conflict with other laws.

6 Codification of the statement is potentially
7 misleading because the revised law not only omits
8 provisions of the act that are impliedly repealed by
9 other law, it also omits provisions that are
10 duplicative of other law. Codification of the
11 statement might create an impression that the
12 provisions of other law that duplicate the omitted
13 provisions do not apply.

14 Section 1.03 also provides that the authority may
15 use the provisions of other laws to the extent
16 necessary or convenient to carry out any power granted
17 by the act or any other applicable law, except to the
18 extent of a conflict with the act. The revised law
19 omits that provision as unnecessary. The operative
20 provisions of other applicable laws are fully
21 effective on their own terms. The omitted law reads:

22 Sec. 1.03. . . . The provisions of
23 this Act are wholly sufficient authority
24 within themselves for the performance of
25 all acts and procedures authorized in this
26 Act, without reference to any other law or
27 any restrictions or limitations contained
28 therein. The authority has the power to use
29 the provisions of any other laws to the
30 extent necessary or convenient to carry out
31 any power, expressed or implied, granted by
32 this Act, or granted by any other law which
33 by its terms is applicable to the authority,
34 except to the extent that any provision of
35 any such other law is in conflict with any
36 express provision of this Act.

37 SUBCHAPTER B. BOARD OF DIRECTORS; ADMINISTRATIVE PROVISIONS

38 Revised Law

39 Sec. 8511.0201. MEMBERSHIP OF BOARD. (a) The board
40 consists of 21 directors appointed by the governor with the advice
41 and consent of the senate.

1 (b) Each director must be a qualified voter and a resident
2 of a county that is wholly or partly inside the authority as
3 described by Section 2.02(a), Chapter 427, Acts of the 44th
4 Legislature, 1st Called Session, 1935.

5 (c) Four directors must be residents of Nueces County. Two
6 directors must be residents of San Patricio County. Two directors
7 must be residents of Jim Wells County.

8 (d) Not more than four persons who reside in Nueces County
9 and not more than two persons who reside in any other county that is
10 wholly or partly inside the authority may be appointed to or serve
11 on the board at the same time. (Acts 44th Leg., 1st C.S., Ch. 427,
12 Secs. 2.03(a), (b).)

13 Source Law

14 Sec. 2.03. (a) The authority shall be governed
15 by a board of directors composed of 24 members until
16 February 1, 1977. On and after that date, the board of
17 directors shall be composed of 21 members. The members
18 of the board of directors shall be appointed by the
19 governor with the advice and consent of the senate.
20 The membership on the board shall be as provided in
21 Subsection (b) of this section. Each member of the
22 board shall be a qualified elector and a resident of a
23 county which lies wholly or partly within the
24 authority as described in Subsection (a), Section 2.02
25 of this Act.

26 (b) There shall be four members of the board who
27 are residents of Nueces County, two members of the
28 board who are residents of San Patricio County, and two
29 members of the board who are residents of Jim Wells
30 County. Not more than four persons who reside in
31 Nueces County and not more than two persons who reside
32 in any other county which lies wholly or partly within
33 the authority may be appointed to or serve on the board
34 at the same time.

35 Revisor's Note

36 (1) Section 2.03(a), Chapter 427, Acts of the
37 44th Legislature, 1st Called Session, 1935, provides
38 that the authority is governed by a board of directors
39 composed of 24 members until February 1, 1977, and
40 provides that "[o]n and after that date," the board is
41 composed of 21 members. The revised law omits the
42 provision regarding the board's composition until
43 February 1, 1977, and the reference to that date in
44 connection with the current composition of the board

1 as executed.

2 (2) Section 2.03(a), Chapter 427, Acts of the
3 44th Legislature, 1st Called Session, 1935, refers to
4 an "elector" of a county in the authority. The revised
5 law substitutes "voter" for "elector" because the
6 terms have the same meaning and "voter" is the term
7 used in the Election Code.

8 Revised Law

9 Sec. 8511.0202. TERMS. Directors serve staggered terms of
10 six years, with one-third of the directors taking office February 1
11 of each odd-numbered year. (Acts 44th Leg., 1st C.S., Ch. 427, Sec.
12 2.03(c).)

13 Source Law

14 (c) Each member of the board shall serve for a
15 term of six years and until his successor is appointed
16 and has qualified. The members' terms shall be
17 staggered, with one-third of the directors taking
18 office on February 1 of each odd-numbered year.

19 Revisor's Note

20 Section 2.03(c), Chapter 427, Acts of the 44th
21 Legislature, 1st Called Session, 1935, provides that
22 each director shall serve "until his successor is
23 appointed and has qualified." The revised law omits
24 the quoted language because it duplicates Section 17,
25 Article XVI, Texas Constitution.

26 Revised Law

27 Sec. 8511.0203. REMOVAL. (a) The governor may remove a
28 director from office for:

- 29 (1) inefficiency;
30 (2) neglect of duty;
31 (3) misconduct in office; or
32 (4) absence from three consecutive regular board
33 meetings.

34 (b) Before a director is removed from office, the board
35 shall conduct a hearing on the charges against the director, and the
36 director is entitled to appear at the hearing and present evidence

1 to show why the director should not be removed from office.

2 (c) At least 30 days before the date of the hearing, the
3 director shall be given notice of:

4 (1) the charges against the director; and

5 (2) the time and place for the hearing.

6 (d) An affirmative vote of not fewer than 11 of the
7 directors is required to approve a removal recommendation.

8 (e) A removal recommendation shall be forwarded to the
9 governor for the governor's consideration and action in accordance
10 with this section. (Acts 44th Leg., 1st C.S., Ch. 427, Sec.
11 2.03(f).)

12 Source Law

13 (f) The governor may remove any director from
14 office for inefficiency, neglect of duty, misconduct
15 in office, or absence from three consecutive regular
16 meetings of the board. Before a director is removed
17 from office, the board shall conduct a hearing on the
18 charges against him, and he shall be entitled to appear
19 at the hearing and present evidence to show why he
20 should not be removed from office. At least 30 days
21 before the day of the hearing, the director shall be
22 given notice of the charges against him and the time
23 and place for the hearing. An affirmative vote of not
24 less than 13 of the directors shall be required to vote
25 a recommendation for removal until February 1, 1977.
26 On and after that date, an affirmative vote of not less
27 than 11 of the directors shall be required to vote a
28 recommendation for removal. The recommendation shall
29 be forwarded to the governor for his consideration and
30 action in accordance with the provisions of this
31 subsection.

32 Revisor's Note

33 Section 2.03(f), Chapter 427, Acts of the 44th
34 Legislature, 1st Called Session, 1935, provides that
35 "[a]n affirmative vote of not less than 13 of the
36 directors shall be required to vote a recommendation
37 for removal until February 1, 1977," and that "[o]n and
38 after that date," an affirmative vote of not less than
39 11 of the directors is required to approve such a
40 recommendation. The revised law omits the quoted
41 language as executed.

42 Revised Law

43 Sec. 8511.0204. VACANCY. A board vacancy shall be filled in

1 the manner provided by Section 8511.0201 for making the original
2 appointment. (Acts 44th Leg., 1st C.S., Ch. 427, Sec. 2.03(e).)

3 Source Law

4 (e) All vacancies on the board shall be filled
5 in the manner provided in this section for making the
6 original appointment.

7 Revisor's Note

8 Section 2.03(e), Chapter 427, Acts of the 44th
9 Legislature, 1st Called Session, 1935, provides that
10 vacancies on the board shall be filled in the manner
11 provided in "this section" for making the original
12 appointment. The relevant provisions of Section 2.03,
13 Chapter 427, Acts of the 44th Legislature, 1st Called
14 Session, 1935, are revised as Section 8511.0201 of
15 this chapter. For the reader's convenience, the
16 revised law substitutes a reference to Section
17 8511.0201 for the quoted language.

18 Revised Law

19 Sec. 8511.0205. BYLAWS. The board shall adopt necessary
20 bylaws for the conduct of the authority's business. (Acts 44th
21 Leg., 1st C.S., Ch. 427, Sec. 2.03(h).)

22 Source Law

23 (h) The board shall adopt and may from time to
24 time amend necessary bylaws for the conduct of the
25 authority's business.

26 Revisor's Note

27 Section 2.03(h), Chapter 427, Acts of the 44th
28 Legislature, 1st Called Session, 1935, provides that
29 the board "shall adopt and may from time to time amend"
30 bylaws. The revised law omits the provision
31 authorizing the board to amend bylaws because the duty
32 to adopt bylaws implies the power to amend bylaws. In
33 addition, throughout this chapter the revised law
34 omits "from time to time" because the power to take an
35 action includes the power to act at any time.

1 Revised Law

2 Sec. 8511.0206. BOND REQUIREMENT FOR DIRECTORS. (a) As a
3 qualification for office, a director must execute a bond in an
4 amount determined by the board conditioned on the faithful
5 performance of the director's duties.

6 (b) The authority shall pay the premiums on the bond. (Acts
7 44th Leg., 1st C.S., Ch. 427, Secs. 2.03(d), 2.08(b) (part).)

8 Source Law

9 [Sec. 2.03]

10 (d) Each member of the board shall qualify by
11 taking the constitutional oath of office and by
12 executing a bond in an amount to be determined by the
13 board conditioned on the faithful performance of his
14 duties.

15 [Sec. 2.08]

16 (b) The authority shall pay the premiums on
17 . . . the directors' bonds under Subsection (d),
18 Section 2.03 of this Act.

19 Revisor's Note

20 Section 2.03(d), Chapter 427, Acts of the 44th
21 Legislature, 1st Called Session, 1935, requires each
22 director to take the constitutional oath of office.
23 The revised law omits that provision because Section
24 1, Article XVI, Texas Constitution, requires all
25 officers to take the oath (or affirmation) before
26 assuming office.

27 Revised Law

28 Sec. 8511.0207. COMPENSATION OF DIRECTORS. (a) A director
29 is entitled to receive an allowance in an amount not to exceed that
30 provided under Section 49.060, Water Code.

31 (b) A director is not entitled to receive a per diem
32 allowance for more than 50 days in a calendar year.

33 (c) In all areas of conflict with this section, Section
34 49.060, Water Code, takes precedence. (Acts 44th Leg., 1st C.S.,
35 Ch. 427, Sec. 2.05.)

36 Source Law

37 Sec. 2.05. (a) A director is entitled to
38 receive an allowance in an amount not exceeding that
39 provided under Section 49.060, Water Code.

1 (b) A director is not entitled to receive a per
2 diem allowance for more than 50 days in any one
3 calendar year.

4 (c) In all areas of conflict with this section,
5 Section 49.060, Water Code, takes precedence.

6 Revised Law

7 Sec. 8511.0208. OFFICERS. (a) The governor shall
8 designate a director as board president to serve in that capacity at
9 the governor's pleasure.

10 (b) The board shall elect one or more vice presidents, a
11 secretary, a treasurer, and any other officers as the directors may
12 determine in the bylaws or otherwise.

13 (c) Each vice president, the secretary, and the treasurer
14 must be a director, but other officers are not required to be
15 directors.

16 (d) The offices of secretary and treasurer may be combined,
17 and the offices of assistant secretary and assistant treasurer may
18 be combined. (Acts 44th Leg., 1st C.S., Ch. 427, Sec. 2.03(i).)

19 Source Law

20 (i) The governor shall designate a member of the
21 board as the president of the board to serve in that
22 capacity at the pleasure of the governor. The board
23 shall elect one or more vice-presidents, a secretary,
24 a treasurer, and such other officers as the members of
25 the board may determine in the bylaws or otherwise.
26 The vice-presidents, secretary, and treasurer shall be
27 members of the board, but other officers need not be
28 members of the board. The offices of secretary and
29 treasurer may be combined, as may the offices of
30 assistant secretary and assistant treasurer.

31 Revisor's Note

32 Section 16, Chapter 21, Acts of the 86th
33 Legislature, Regular Session, 2019, contains
34 transition provisions regarding the term of the
35 director serving as board president in office on the
36 effective date of the act (September 1, 2019), the
37 appointment of a successor director, and the
38 designation of board president. The revised law omits
39 the provisions as executed because the term of office
40 of the director serving as board president on the
41 effective date of the act has expired, a successor

1 director has been appointed, and the board president
2 has been designated. The omitted law reads:

3 Sec. 16. (a) The term of the
4 president of the board of directors of the
5 Nueces River Authority serving on the
6 effective date of this Act expires
7 September 1, 2019. The director serving as
8 president on the effective date of this Act
9 may continue to serve on the board of
10 directors until the director's successor is
11 appointed and has qualified.

12 (b) Not later than September 2, 2019,
13 the governor shall designate a director as
14 president of the board of directors of the
15 Nueces River Authority as required by
16 Section 2.03(i), Chapter 427, Acts of the
17 44th Legislature, 1st Called Session, 1935,
18 as amended by this Act.

19 Revised Law

20 Sec. 8511.0209. COMMITTEES. (a) The board may appoint or
21 establish an executive committee and appoint or provide for the
22 appointment of other committees as necessary or desirable to assist
23 in conducting the authority's business.

24 (b) Subject to the applicable rules of law on delegation of
25 powers, the board may assign or delegate or provide for the
26 assignment or delegation of any powers, duties, and functions to
27 its committees as the board may prescribe.

28 (c) A committee member who is not a director may not vote on
29 a matter coming before the committee unless specifically authorized
30 by the board to do so. (Acts 44th Leg., 1st C.S., Ch. 427, Sec.
31 2.06.)

32 Source Law

33 Sec. 2.06. The board may appoint or establish an
34 executive committee and appoint or provide for the
35 appointment of other committees as necessary or
36 desirable to assist in conducting the business of the
37 authority. Subject to the applicable rules of law on
38 delegation of powers, the board may assign or delegate
39 or provide for the assignment or delegation of any
40 powers, duties, and functions to its committees as the
41 board may from time to time prescribe. In the event a
42 committee member is not a member of the board, he shall
43 not be allowed to vote on matters coming before the
44 committee unless specifically authorized by the board
45 to do so.

46 Revised Law

47 Sec. 8511.0210. EXECUTIVE DIRECTOR. (a) The board may

1 employ an executive director and set the executive director's
2 salary and other compensation by a majority vote of all the
3 qualified directors.

4 (b) The executive director is the authority's chief
5 executive officer.

6 (c) Under policies the board and the executive committee
7 establish, the executive director is responsible to the board and
8 the executive committee for:

9 (1) administering the directives of the board and the
10 executive committee;

11 (2) keeping the authority's records, including minutes
12 of meetings of the board and the executive committee;

13 (3) coordinating with state, federal, and local
14 agencies;

15 (4) developing plans and programs for the approval of
16 the board or the executive committee;

17 (5) hiring, supervising, training, and discharging
18 the authority's employees, as authorized by the board or the
19 executive committee;

20 (6) contracting for or retaining technical,
21 scientific, legal, fiscal, and other professional services, as
22 authorized by the board or the executive committee; and

23 (7) performing any other duties assigned to the
24 executive director by the board or the executive committee.

25 (d) The board may discharge the executive director by a
26 majority vote of all the qualified directors. (Acts 44th Leg., 1st
27 C.S., Ch. 427, Sec. 2.07.)

28 Source Law

29 Sec. 2.07. (a) The board may employ an
30 executive director and set his salary and other
31 compensation on a majority vote of all the qualified
32 directors.

33 (b) The executive director is the chief
34 executive officer of the authority. Under policies
35 established by the board and the executive committee,
36 he is responsible to the board and the executive
37 committee for:

38 (1) administering the directives of the
39 board and the executive committee;

1 (2) keeping the authority's records,
2 including minutes of meetings of the board and the
3 executive committee;

4 (3) coordinating with state, federal, and
5 local agencies;

6 (4) developing plans and programs for the
7 approval of the board or the executive committee;

8 (5) hiring, supervising, training, and
9 discharging the authority's employees, as authorized
10 by the board or the executive committee;

11 (6) contracting for or retaining
12 technical, scientific, legal, fiscal, and other
13 professional services, as authorized by the board or
14 the executive committee; and

15 (7) performing any other duties assigned
16 to him by the board or the executive committee.

17 (c) The board may discharge the executive
18 director on a majority vote of all the qualified
19 directors.

20 Revised Law

21 Sec. 8511.0211. DIRECTOR TRAINING PROGRAM. (a) A person
22 who is appointed to and qualifies for office as a director may not
23 vote, deliberate, or be counted as a director in attendance at a
24 board meeting until the person completes a training program that
25 complies with this section.

26 (b) The training program must provide the person with
27 information regarding:

28 (1) the law governing authority operations;

29 (2) the authority's programs, functions, rules, and
30 budget;

31 (3) the results of the authority's most recent formal
32 audit;

33 (4) the requirements of:

34 (A) laws relating to open meetings, public
35 information, administrative procedure, and disclosure of conflicts
36 of interest; and

37 (B) other laws applicable to members of the
38 governing body of a river authority in performing their duties; and

39 (5) any applicable ethics policies adopted by the
40 authority or the Texas Ethics Commission.

41 (c) A person appointed to the board is entitled to
42 reimbursement for the travel expenses incurred in attending the
43 training program regardless of whether the attendance at the

1 program occurs before or after the person qualifies for office.

2 (d) The executive director shall create a training manual
3 that includes the information required by Subsection (b). The
4 executive director shall distribute a copy of the training manual
5 annually to each director. Each director shall sign and submit to
6 the executive director a statement acknowledging that the director
7 has received and reviewed the training manual. (Acts 44th Leg., 1st
8 C.S., Ch. 427, Sec. 2.03A.)

9 Source Law

10 Sec. 2.03A. (a) A person who is appointed to
11 and qualifies for office as a director may not vote,
12 deliberate, or be counted as a director in attendance
13 at a board meeting until the person completes a
14 training program that complies with this section.

15 (b) The training program must provide the person
16 with information regarding:

17 (1) the law governing authority
18 operations;

19 (2) the programs, functions, rules, and
20 budget of the authority;

21 (3) the results of the most recent formal
22 audit of the authority;

23 (4) the requirements of:

24 (A) laws relating to open meetings,
25 public information, administrative procedure, and
26 disclosure of conflicts of interest; and

27 (B) other laws applicable to members
28 of the governing body of a river authority in
29 performing their duties; and

30 (5) any applicable ethics policies adopted
31 by the authority or the Texas Ethics Commission.

32 (c) A person appointed to the board is entitled
33 to reimbursement for the travel expenses incurred in
34 attending the training program regardless of whether
35 the attendance at the program occurs before or after
36 the person qualifies for office.

37 (d) The executive director shall create a
38 training manual that includes the information required
39 by Subsection (b) of this section. The executive
40 director shall distribute a copy of the training
41 manual annually to each director. Each director shall
42 sign and submit to the executive director a statement
43 acknowledging that the director has received and
44 reviewed the training manual.

45 Revised Law

46 Sec. 8511.0212. INTEREST IN CONTRACT. (a) A director who
47 is financially interested in a contract to be executed by the
48 authority for the purchase, sale, lease, rental, or supply of
49 property, including supplies, materials, and equipment, or the
50 construction of facilities shall disclose that fact to the other
51 directors and may not vote on or participate in discussions during

1 board meetings on the acceptance of the contract.

2 (b) An interest described by Subsection (a) does not affect
3 the validity of a contract if the disclosure is made and the
4 interested director does not vote on the question of entering into
5 the contract. (Acts 44th Leg., 1st C.S., Ch. 427, Sec. 2.04.)

6 Source Law

7 Sec. 2.04. A director who is financially
8 interested in a contract to be executed by the
9 authority for the purchase, sale, lease, renting, or
10 supplying of property, including without limitation
11 supplies, materials, and equipment, or the
12 construction of facilities shall disclose that fact to
13 the other directors and may not vote on or participate
14 in discussions during board meetings on the acceptance
15 of the contract. Such interest shall not affect the
16 validity of a contract if the disclosure is made and
17 the interested director does not vote on the question
18 of entering into the contract.

19 Revisor's Note

20 Section 2.04, Chapter 427, Acts of the 44th
21 Legislature, 1st Called Session, 1935, refers to a
22 contract for the purchase, sale, lease, renting, or
23 supplying of property, "including without limitation"
24 supplies, materials, and equipment. The revised law
25 omits "without limitation" as unnecessary because
26 Section 311.005(13), Government Code (Code
27 Construction Act), provides that "includes" and
28 "including" are terms of enlargement and not of
29 limitation and do not create a presumption that
30 components not expressed are excluded.

31 Revised Law

32 Sec. 8511.0213. SEPARATION OF POLICYMAKING AND MANAGEMENT
33 FUNCTIONS. The board shall develop and implement policies that
34 clearly separate the board's policymaking responsibilities and the
35 executive director's and staff's management responsibilities.
36 (Acts 44th Leg., 1st C.S., Ch. 427, Sec. 2.08A.)

37 Source Law

38 Sec. 2.08A. The board shall develop and
39 implement policies that clearly separate the
40 policymaking responsibilities of the board and the
41 management responsibilities of the executive director

1 and the staff of the authority.

2 Revised Law

3 Sec. 8511.0214. PUBLIC TESTIMONY. (a) The board shall
4 develop and implement policies that provide the public with a
5 reasonable opportunity to appear before the board and to speak on
6 any issue under the authority's jurisdiction.

7 (b) At each regular board meeting, the board shall include
8 public testimony as a meeting agenda item and allow members of the
9 public to comment on other agenda items and other matters under the
10 authority's jurisdiction. The board may not deliberate on or decide
11 a matter not included in the meeting agenda, except that the board
12 may discuss including the matter on the agenda for a subsequent
13 meeting. (Acts 44th Leg., 1st C.S., Ch. 427, Sec. 2.06A.)

14 Source Law

15 Sec. 2.06A. (a) The board shall develop and
16 implement policies that provide the public with a
17 reasonable opportunity to appear before the board and
18 to speak on any issue under the jurisdiction of the
19 authority.

20 (b) At each regular meeting of the board, the
21 board shall include public testimony as a meeting
22 agenda item and allow members of the public to comment
23 on other agenda items and other matters under the
24 jurisdiction of the authority. The board may not
25 deliberate on or decide a matter not included in the
26 meeting agenda, except that the board may discuss
27 including the matter on the agenda for a subsequent
28 meeting.

29 Revised Law

30 Sec. 8511.0215. DIRECTORS' AND EMPLOYEES' FIDELITY BONDS.

31 (a) The executive director, the treasurer, and each of the
32 authority's officers, agents, or employees who is charged with the
33 collection, custody, or payment of authority money shall execute a
34 fidelity bond.

35 (b) The board must approve the bond's form, amount, and
36 surety.

37 (c) The authority shall pay the premiums on the bond. (Acts
38 44th Leg., 1st C.S., Ch. 427, Secs. 2.08(a), (b) (part).)

39 Source Law

40 Sec. 2.08. (a) The executive director, the
41 treasurer, and other officers, agents, and employees
42 of the authority charged with the collection, custody,

1 or payment of any money of the authority shall execute
2 a fidelity bond. The board shall approve the form,
3 amount, and surety of the bond.

4 (b) The authority shall pay the premiums on the
5 bonds under this section and

6 Revised Law

7 Sec. 8511.0216. AUTHORITY'S OFFICE. The authority shall
8 maintain its principal office inside its boundaries. (Acts 44th
9 Leg., 1st C.S., Ch. 427, Sec. 2.09.)

10 Source Law

11 Sec. 2.09. The authority shall maintain its
12 principal office within its boundaries.

13 Revised Law

14 Sec. 8511.0217. COMPLAINTS. (a) The authority shall
15 maintain a system to act promptly and efficiently on complaints
16 filed with the authority.

17 (b) The authority shall maintain information about:

18 (1) the parties to the complaint;

19 (2) the subject matter of the complaint;

20 (3) a summary of the results of the review or
21 investigation of the complaint; and

22 (4) the complaint's disposition.

23 (c) The authority shall periodically notify the parties to
24 the complaint of the complaint's status until final disposition.

25 (d) The authority shall make information available
26 describing its procedures for complaint investigation and
27 resolution. (Acts 44th Leg., 1st C.S., Ch. 427, Sec. 3.27.)

28 Source Law

29 Sec. 3.27. (a) The authority shall maintain a
30 system to promptly and efficiently act on complaints
31 filed with the authority. The authority shall maintain
32 information about the parties to and subject matter of
33 the complaint, a summary of the results of the review
34 or investigation of the complaint, and the disposition
35 of the complaint.

36 (b) The authority shall make information
37 available describing its procedures for complaint
38 investigation and resolution.

39 (c) The authority shall periodically notify the
40 complaint parties of the status of the complaint until
41 final disposition.

42 Revised Law

43 Sec. 8511.0218. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.

1 (a) The board shall develop a policy to encourage the use of
2 appropriate alternative dispute resolution procedures under
3 Chapter 2009, Government Code, to assist in the resolution of
4 internal and external disputes under the authority's jurisdiction.

5 (b) The authority's procedures relating to alternative
6 dispute resolution must conform, to the extent possible, to any
7 model guidelines issued by the State Office of Administrative
8 Hearings for the use of alternative dispute resolution by state
9 agencies.

10 (c) The authority shall:

11 (1) coordinate the implementation of the policy
12 adopted under Subsection (a);

13 (2) provide training as needed to implement the
14 procedures for alternative dispute resolution; and

15 (3) collect data concerning the effectiveness of those
16 procedures. (Acts 44th Leg., 1st C.S., Ch. 427, Sec. 3.18A.)

17 Source Law

18 Sec. 3.18A. (a) The board shall develop a
19 policy to encourage the use of appropriate alternative
20 dispute resolution procedures under Chapter 2009,
21 Government Code, to assist in the resolution of
22 internal and external disputes under the authority's
23 jurisdiction.

24 (b) The authority's procedures relating to
25 alternative dispute resolution must conform, to the
26 extent possible, to any model guidelines issued by the
27 State Office of Administrative Hearings for the use of
28 alternative dispute resolution by state agencies.

29 (c) The authority shall:

30 (1) coordinate the implementation of the
31 policy adopted under Subsection (a) of this section;

32 (2) provide training as needed to
33 implement the procedures for alternative dispute
34 resolution; and

35 (3) collect data concerning the
36 effectiveness of those procedures.

37 Revised Law

38 Sec. 8511.0219. FIVE-YEAR STRATEGIC PLAN. (a) The
39 authority shall adopt and promptly publish on the authority's
40 Internet website a written strategic plan that:

41 (1) sets the authority's goals for the following five
42 years;

43 (2) establishes the authority's mission; and

1 (3) describes the anticipated activities that the
2 authority will perform in the Nueces River Basin over the following
3 five years.

4 (b) The authority shall update the strategic plan regularly
5 and publish the updated versions of the plan on the authority's
6 Internet website. (Acts 44th Leg., 1st C.S., Ch. 427, Sec. 3.28.)

7 Source Law

8 Sec. 3.28. (a) The authority shall adopt and
9 promptly publish on the authority's Internet website a
10 written, five-year strategic plan that:

11 (1) sets the authority's goals for the
12 following five years;

13 (2) establishes the authority's mission;
14 and

15 (3) describes the anticipated activities
16 that the authority will perform in the Nueces River
17 Basin over the following five years.

18 (b) The authority shall update the five-year
19 strategic plan regularly and publish the updated
20 versions of the plan on the authority's Internet
21 website.

22 Revisor's Note

23 (End of Subchapter)

24 (1) Section 2.03(g), Chapter 427, Acts of the
25 44th Legislature, 1st Called Session, 1935, provides
26 that 13 members of the board constitute a quorum for
27 the transaction of business until February 1, 1977,
28 and that on and after that date 11 members of the
29 board, which is a majority of the full membership of
30 the board, constitute a quorum for the transaction of
31 business. The revised law omits the provision
32 regarding the number of members of the board required
33 to constitute a quorum for the transaction of business
34 until February 1, 1977, as executed. The revised law
35 omits the provision regarding the number of members of
36 the board required to constitute a quorum for the
37 transaction of business on and after that date because
38 it duplicates, in substance, Section 311.013,
39 Government Code (Code Construction Act), which
40 provides that a quorum of a public body is a majority
41 of the number of members fixed by statute. The revised

1 law also omits "for the transaction of business"
2 because "quorum" means the number of persons or votes
3 necessary for a body to act. The omitted law reads:

4 (g) Thirteen members of the board
5 shall constitute a quorum for the
6 transaction of business until February 1,
7 1977. On and after that date, 11 members of
8 the board shall constitute a quorum for the
9 transaction of business.

10 (2) Section 2.10(b), Chapter 427, Acts of the
11 44th Legislature, 1st Called Session, 1935, requires
12 the board to keep complete and accurate minutes of its
13 meetings. The revised law omits that provision
14 because it duplicates, in substance, part of Section
15 49.065(a), Water Code, which requires that the board
16 keep a complete account of all its meetings.
17 Throughout this chapter, the revised law omits law
18 that is superseded by Chapter 49, Water Code, or that
19 duplicates law contained in that chapter. Except as
20 otherwise provided by that chapter, Chapter 49, Water
21 Code, applies to the authority under Sections 49.001
22 and 49.002, Water Code. The omitted law reads:

23 (b) The authority shall keep complete
24 and accurate minutes of its meetings.

25 (3) Section 3, Chapter 699, Acts of the 64th
26 Legislature, Regular Session, 1975, provides for the
27 transition of the board following changes to the board
28 by that act. The revised law omits that provision as
29 executed. The omitted law reads:

30 Sec. 3. Those persons who are serving
31 on the 21-member board of directors of the
32 authority on the effective date of this Act
33 shall continue to hold office until the
34 expiration of the terms to which they have
35 been appointed, except as provided in this
36 section. On the effective date of this Act,
37 or as soon thereafter as possible, the
38 governor shall proceed to appoint members
39 to the board of directors who are residents
40 of Nueces County, San Patricio County, and
41 Jim Wells County as may be necessary to
42 bring the membership of the board into
43 compliance with Section 2.03(b) of this Act
44 at the earliest possible time. Of the three

1 initial appointments made by the governor
2 to fill the three new positions on the
3 24-member board of directors authorized by
4 Section 2.03(a) of this Act, one shall be
5 appointed to serve a two-year term, one
6 shall be appointed to serve a four-year
7 term, and one shall be appointed to serve a
8 six-year term. Thereafter, appointments to
9 fill the new positions shall be made for
10 six-year terms. On or before January 31,
11 1977, the board of directors of the
12 authority shall determine the three
13 positions on the board which shall be
14 abolished to reduce the number of positions
15 as of February 1, 1977, from 24 back down to
16 21, as required by Section 2.03(a) of this
17 Act; provided, however, that none of the
18 positions filled by directors who are
19 residents of Nueces County, San Patricio
20 County, and Jim Wells County shall be
21 abolished, but those positions shall be
22 continued. The proceedings for making this
23 determination shall be initiated by the
24 president of the board of directors, who
25 shall present the matter to the board at any
26 regular or special board meeting, or at a
27 board meeting which he is hereby
28 specifically authorized to call for the
29 purpose, held on or before January 31, 1977.
30 At least 10 days' notice of the meeting at
31 which the matter is to be presented shall be
32 given to the members of the board. For this
33 purpose, the board of directors shall be
34 considered in three classes. One class
35 shall consist of the members of the board
36 whose terms expire January 31, 1977; a
37 second class shall consist of the members of
38 the board whose terms expire January 31,
39 1979; the third class shall consist of the
40 members of the board whose terms expire
41 January 31, 1981. All members in each class
42 of directors who are present at the meeting
43 shall determine by unanimous agreement of
44 the members of the class present which
45 director's position in that class, other
46 than a position held by a director who is a
47 resident of Nueces County, San Patricio
48 County, or Jim Wells County, shall be
49 abolished so as to reduce the number of
50 directors in that class to seven as of
51 February 1, 1977. In the event unanimous
52 agreement is not reached by the members of
53 the class present at the meeting, the matter
54 of which director's position in that class
55 shall be abolished shall be determined at
56 such meeting by the drawing of lots. Only
57 those members of the class who are residents
58 of counties other than Nueces County, San
59 Patricio County, and Jim Wells County shall
60 participate in the drawing of lots at the
61 meeting; a member of the class who is a
62 resident of one of the named counties shall
63 not participate in the drawing of lots, nor
64 shall his position be abolished. If at the
65 time of the meeting there is a vacancy in
66 any directorship position in a class which
67 makes the determination by the drawing of
68 lots or if a member holding a directorship

1 position in such class is absent from the
2 meeting, other than a vacant position
3 formerly held by or an absent member who is
4 a resident of one of the named counties, any
5 other member of the board present at the
6 meeting is authorized to draw the lot on
7 behalf of the vacant position or the
8 position held by the absent director. The
9 directorship positions abolished by this
10 process shall be abolished as of and shall
11 cease to exist after January 31, 1977, and
12 the term of office of the persons holding
13 the positions shall likewise terminate. In
14 making appointments to fill unexpired terms
15 in other positions on the board which may be
16 vacant on February 1, 1977, or become vacant
17 within a reasonable period of time
18 thereafter because of resignations or other
19 reasons, the governor shall give
20 consideration to appointing those persons
21 now serving on the board whose positions are
22 abolished as of January 31, 1977, pursuant
23 to the provisions of this section. This
24 section is a transition provision and shall
25 have effect only for the period of time
26 necessary to accomplish its purpose.
27 Except as otherwise specifically provided
28 herein to accomplish the transition, the
29 governor shall make appointments to the
30 board of directors of the authority as
31 provided in Section 2.03 of this Act.

32 SUBCHAPTER C. POWERS AND DUTIES

33 Revised Law

34 Sec. 8511.0301. GENERAL POWERS AND DUTIES. (a) The
35 authority shall:

36 (1) administer this chapter; and

37 (2) use its facilities and powers to accomplish the
38 purposes of this chapter.

39 (b) The authority may:

40 (1) exercise the powers, rights, privileges, and
41 functions in this chapter;

42 (2) exercise all powers, rights, and privileges
43 necessary or convenient for accomplishing the purposes of this
44 chapter; and

45 (3) perform any other act necessary or convenient to
46 the exercise of the powers, rights, privileges, or functions
47 conferred by this chapter or other laws.

48 (c) The board may provide for any expenditures it considers
49 essential or useful in the authority's maintenance, operation, and

1 administration. (Acts 44th Leg., 1st C.S., Ch. 427, Secs. 2.01
2 (part), 3.01(a), (b), 3.24.)

3 Source Law

4 [Sec. 2.01]
5 . . . [the Nueces River Authority is a conservation
6 and reclamation district,] . . . with the authority to
7 exercise the powers, rights, privileges, and functions
8 in this Act. . . .

9 Sec. 3.01. (a) The authority shall administer
10 this Act and shall use its facilities and powers to
11 accomplish the purposes of this Act.

12 (b) The authority shall have and may exercise
13 all powers, rights, and privileges necessary or
14 convenient for accomplishing the purposes of this Act.

15 Sec. 3.24. (a) The board may provide for any
16 expenditures it considers essential or useful in the
17 maintenance, operation, and administration of the
18 authority.

19 (b) The authority may perform any other acts or
20 things necessary or convenient to the exercise of the
21 powers, rights, privileges, or functions conferred by
22 this Act or other laws.

23 Revised Law

24 Sec. 8511.0302. CONTROL AND USE OF WATERS. (a) The
25 authority may exercise power over the storm water and floodwater of
26 the Nueces River Basin.

27 (b) The authority may exercise the powers of control and use
28 of this state's water in the following manner and for the following
29 purposes:

30 (1) to provide for the control and coordination of
31 water use in the Nueces River Basin as a unit;

32 (2) to provide for the preservation of the rights of
33 the people of the different sections of the Nueces River Basin in
34 the beneficial use of water by adequate organization and
35 administration;

36 (3) to provide for conserving storm water, floodwater,
37 and unappropriated flow water of the Nueces River Basin, including
38 the storage, control, transportation, treatment, and distribution
39 of that water, and the prevention of the escape of any of that water
40 without the maximum of public service;

41 (4) to provide for the prevention of the devastation
42 of land from recurrent overflows;

- 1 (5) to provide for the protection of life and property
2 in the Nueces River Basin from uncontrolled floodwater;
- 3 (6) to provide for the conservation of water essential
4 for domestic and other water uses of the people of the Nueces River
5 Basin, including all necessary water supplies for municipalities
6 and industrial districts;
- 7 (7) to provide for the irrigation of land in the Nueces
8 River Basin where irrigation is required for agricultural purposes
9 or may be considered helpful to more profitable agricultural
10 production;
- 11 (8) to provide for the equitable distribution of storm
12 water, floodwater, and unappropriated flow water to meet the
13 regional potential requirements for all uses;
- 14 (9) to provide for the encouragement and development
15 of drainage systems and provisions for the drainage of land in the
16 valleys of the Nueces River and its tributary streams needing
17 drainage for profitable agricultural and livestock production and
18 industrial activities and the drainage of other land in the
19 authority's watershed area requiring drainage for the most
20 advantageous use;
- 21 (10) to provide for the conservation of soil against
22 destructive erosion to prevent the increased flood menace incident
23 to erosion;
- 24 (11) to control and make available for use storm
25 water, floodwater, and unappropriated flow water as may be
26 authorized by the commission in the development of commercial and
27 industrial enterprises in all sections of the authority's watershed
28 area;
- 29 (12) to provide for the control, storage, and use of
30 storm water, floodwater, and unappropriated flow water in the
31 development and distribution of hydroelectric power, if that use
32 may be economically coordinated with other and superior uses and
33 subordinated to the uses declared by law to be superior; and
- 34 (13) to provide for each purpose and use for which

1 storm water, floodwater, and unappropriated flow water when
2 controlled and conserved may be used in the performance of a useful
3 service as contemplated and authorized by the provisions of the
4 constitution and statutes.

5 (c) The authority may:

6 (1) control, store, and preserve the water of the
7 Nueces River and its tributaries inside the authority's boundaries
8 for a useful purpose;

9 (2) use, distribute, and sell the water for a
10 beneficial purpose inside and outside the authority; and

11 (3) acquire water and water rights inside and outside
12 the authority.

13 (d) All plans and works provided by the authority and all
14 works that may be provided under the authority's authorization
15 should have primary regard to the necessity and potential needs for
16 water by or in the respective areas constituting the watershed of
17 the Nueces River and its tributary streams. (Acts 44th Leg., 1st
18 C.S., Ch. 427, Sec. 3.02.)

19 Source Law

20 Sec. 3.02. (a) Subject to the provisions of
21 the constitution and statutes of the state and the
22 continuing right of supervision of the state through
23 the commission, the Nueces River Authority has and may
24 exercise authority and power over the storm water and
25 floodwater of the Nueces River Basin, subject to the
26 applicable provisions of Chapters 5, 11, and 12, Water
27 Code.

28 (b) Subject to Chapters 5, 11, and 12, Water
29 Code, the authority may exercise the powers of control
30 and employment of the state's water in the manner and
31 for the particular purposes as follows:

32 (1) to provide for the control and
33 coordination of water use in the Nueces River Basin as
34 a unit;

35 (2) to provide by adequate organization
36 and administration for the preservation of the rights
37 of the people of the different sections of the river
38 basin in the beneficial use of water;

39 (3) to provide for conserving storm,
40 flood, and unappropriated flow water of the Nueces
41 River Basin, including the storing, controlling,
42 transporting, treating, and distributing of such
43 water, and the prevention of the escape of any such
44 water without the maximum of public service and for the
45 prevention of devastation of land from recurrent
46 overflows, and the protection of life and property in
47 the river basin from uncontrolled floodwater;

48 (4) to provide for the conservation of

1 water essential for domestic and other water uses of
2 the people of the Nueces River Basin, including all
3 necessary water supplies for cities, towns, and
4 industrial districts;

5 (5) to provide for the irrigation of land
6 in the Nueces River Basin where irrigation is required
7 for agricultural purposes or may be deemed helpful to
8 more profitable agricultural production and for the
9 equitable distribution of storm, flood, and
10 unappropriated flow water to the regional potential
11 requirements for all uses; all plans and all works
12 provided by the authority and all works which may be
13 provided under authorization of the authority should
14 have primary regard to the necessary and potential
15 needs for water, by or within the respective areas
16 constituting the watershed of the Nueces River and its
17 tributary streams;

18 (6) to provide for the encouragement and
19 development of drainage systems and provisions for
20 drainage of land in the valleys of the Nueces River and
21 its tributary streams needing drainage for profitable
22 agricultural and livestock production and industrial
23 activities and drainage of other land in the watershed
24 area of the authority requiring drainage for the most
25 advantageous use;

26 (7) to provide for the conservation of all
27 soils against destructive erosion, thereby preventing
28 the increased flood menace incident thereto;

29 (8) to control and make available for
30 employment, flood, storm, and unappropriated flow
31 water as may be authorized by the commission, in the
32 development of commercial and industrial enterprises
33 in all sections of the watershed area of the authority;

34 (9) to provide as set forth by Chapters 5,
35 11, and 12, Water Code, for the control, storing, and
36 employment of flood, storm, and unappropriated flow
37 water in the development and distribution of
38 hydroelectric power, where this use may be
39 economically coordinated with other and superior uses,
40 and subordinated to the uses declared by law to be
41 superior; and

42 (10) to provide in the manner set forth in
43 Chapters 5, 11, and 12, Water Code, for each and every
44 purpose and use for which flood, storm, and
45 unappropriated flow water when controlled and
46 conserved may be utilized in the performance of a
47 useful service as contemplated and authorized by the
48 provisions of the constitution and statutes.

49 (c) Subject to Chapters 5, 11, and 12, Water
50 Code, the authority may control, store, and preserve
51 the water of the Nueces River and its tributaries
52 within the boundaries of the authority for any useful
53 purpose, and may use, distribute, and sell the water
54 for any beneficial purpose inside and outside the
55 authority, and may acquire water and water rights
56 inside and outside the authority.

57 Revisor's Note

58 (1) Section 3.02(a), Chapter 427, Acts of the
59 44th Legislature, 1st Called Session, 1935, provides
60 that, "[s]ubject to the provisions of the constitution
61 and statutes of the state and the continuing right of
62 supervision of the state through the commission," the

1 authority has certain powers, "subject to the
2 applicable provisions of Chapters 5, 11, and 12, Water
3 Code." Similarly, Section 3.02(b) of Chapter 427
4 provides that, "[s]ubject to Chapters 5, 11, and 12,
5 Water Code," the authority may exercise certain
6 powers, Section 3.02(b)(9) of Chapter 427 authorizes
7 the authority to provide "as set forth by Chapters 5,
8 11, and 12, Water Code," for the control, storage, and
9 employment of certain water for certain purposes,
10 Section 3.02(b)(10) of Chapter 427 authorizes the
11 authority to provide "in the manner set forth in
12 Chapters 5, 11, and 12, Water Code," for each purpose
13 for which certain water may be used in the performance
14 of a useful service, and Section 3.02(c) of Chapter 427
15 provides that, "[s]ubject to Chapters 5, 11, and 12,
16 Water Code," the authority may control, store,
17 preserve, use, distribute, and sell certain water for
18 certain purposes and may acquire water and water
19 rights.

20 The revised law omits the references to the
21 constitution and statutes of the state and Chapters 5,
22 11, and 12, Water Code, as unnecessary because the
23 applicable provisions of those laws apply by their own
24 terms. The revised law omits the reference to the
25 continuing right of supervision of the state through
26 the Texas Water Rights Commission because the Texas
27 Commission on Environmental Quality is the successor
28 to the Texas Water Rights Commission, and therefore
29 the provision duplicates, in substance, part of
30 Section 12.081, Water Code, which subjects certain
31 special districts and authorities, including the
32 authority, to supervision by the Texas Commission on
33 Environmental Quality.

34 (2) Section 3.02(a), Chapter 427, Acts of the

1 44th Legislature, 1st Called Session, 1935, provides
2 that the authority may exercise "authority and power"
3 over the storm water and floodwater of the Nueces River
4 Basin. The revised law omits "authority" because, in
5 context, "authority" is included in the meaning of
6 "power."

7 (3) Section 3.02(b)(4), Chapter 427, Acts of the
8 44th Legislature, 1st Called Session, 1935, refers to
9 "cities" and "towns." The revised law substitutes
10 "municipalities" for "cities" and "towns" because the
11 meaning of "municipalities" includes both cities and
12 towns, and "municipalities" is the term used in the
13 Local Government Code.

14 Revised Law

15 Sec. 8511.0303. USE OF BED AND BANKS OF NUECES RIVER AND ITS
16 TRIBUTARIES. Subject to the commission's approval, the authority
17 may use the bed and banks of the Nueces River and its tributary
18 streams for any purpose necessary to accomplish the authority's
19 plans for storing, controlling, conserving, transporting, and
20 distributing storm water, floodwater, and appropriated flow waters
21 for useful purposes. (Acts 44th Leg., 1st C.S., Ch. 427, Sec.
22 3.21.)

23 Source Law

24 Sec. 3.21. Subject to the approval of the
25 commission, the authority may use the bed and banks of
26 the Nueces River and its tributary streams for any
27 purposes necessary to accomplish the plans of the
28 authority for storing, controlling, conserving,
29 transporting, and distributing storm, flood, and
30 appropriated flow waters for useful purposes.

31 Revised Law

32 Sec. 8511.0304. MASTER PLAN. (a) The authority shall
33 prepare and file with the commission a master plan for the maximum
34 development of the soil and water resources of the entire Nueces
35 River watershed, including plans for the complete use, for all
36 economically beneficial purposes, of the watershed's water
37 resources. The authority may amend the master plan as appropriate

1 to accomplish the purposes of this section.

2 (b) After the master plan or any amendments to the plan have
3 been filed with the commission, notice of the application of any
4 person who desires to acquire the right to use state water that is
5 in the Nueces River watershed shall be provided to the authority.
6 After public hearing as provided by law, the commission may grant or
7 deny the proposed application in the manner required by law,
8 notwithstanding any contrary provision of the master plan or any
9 amendments to the plan.

10 (c) Each work constructed by the authority shall be
11 constructed and operated in a manner that, in the greatest
12 practicable degree, conforms to the master plan and any amendments
13 to the plan.

14 (d) This section may not be construed to interfere with any
15 improvement of the Nueces River or its tributaries or with a grant
16 or loan in aid of any improvement made by the United States or by
17 this state. (Acts 44th Leg., 1st C.S., Ch. 427, Sec. 3.22.)

18 Source Law

19 Sec. 3.22. (a) It shall be the duty of the
20 authority to prepare and file with the commission a
21 master plan for the maximum development of the soil and
22 water resources of the entire Nueces River watershed,
23 including plans for the complete utilization, for all
24 economically beneficial purposes, of the water
25 resources of the watershed. The authority may amend
26 the master plan from time to time as may be appropriate
27 to accomplish the purposes of this section.

28 (b) After the master plan or any amendments
29 thereto have been filed with the commission, notice of
30 the application of any person who desires to acquire
31 the right to use state water which is in the Nueces
32 River watershed shall be furnished to the authority.
33 After public hearing as provided by law, the
34 commission may grant or deny the proposed application
35 in the manner required by law, notwithstanding any
36 provisions of the master plan or any amendments
37 thereto to the contrary.

38 (c) Works constructed by the authority shall be
39 constructed and operated in a manner which will
40 conform to the master plan and any amendments thereto
41 in the greatest practicable degree.

42 (d) None of the provisions of this section shall
43 be construed to interfere with any improvement of the
44 Nueces River or its tributaries or with grants or loans
45 in aid of any improvement made by the United States or
46 any of its agencies or by the State of Texas or any of
47 its agencies or political subdivisions.

1 Revisor's Note

2 (1) Section 3.22(d), Chapter 427, Acts of the
3 44th Legislature, 1st Called Session, 1935, refers to
4 the United States "or any of its agencies." The
5 revised law omits the quoted language as unnecessary
6 because under Section 311.005(9), Government Code
7 (Code Construction Act), "United States" includes a
8 department, bureau, or other agency of the United
9 States of America.

10 (2) Section 3.22(d), Chapter 427, Acts of the
11 44th Legislature, 1st Called Session, 1935, refers to
12 the state or "any of its agencies or political
13 subdivisions." The revised law omits the quoted
14 language as unnecessary because an agency or political
15 subdivision is included in the meaning of the term
16 "state" as defined by Section 8511.0101 of this
17 chapter.

18 Revised Law

19 Sec. 8511.0305. WATER CONSERVATION PROGRAM. The board
20 shall adopt and implement a program of water conservation that:

21 (1) incorporates the practices, techniques, and
22 technologies that will reduce water consumption, reduce water loss
23 or waste, improve efficiency in water use, or increase water
24 recycling and reuse so that a water supply is available for future
25 or alternative uses; and

26 (2) the commission and development board determine
27 meets reasonably anticipated local needs and conditions. (Acts
28 44th Leg., 1st C.S., Ch. 427, Sec. 3.22A.)

29 Source Law

30 Sec. 3.22A. The board shall adopt and implement
31 a program of water conservation that incorporates the
32 practices, techniques, and technologies that will
33 reduce the consumption of water, reduce the loss or
34 waste of water, improve the efficiency in the use of
35 water, or increase the recycling and reuse of water so
36 that a water supply is made available for future or
37 alternative uses and that the commission and
38 development board determine will meet reasonably

1 anticipated local needs and conditions.

2 Revised Law

3 Sec. 8511.0306. FORESTATION AND REFORESTATION. The
4 authority may forest, reforest, or aid in foresting or reforesting
5 the watershed of the Nueces River and its tributaries. (Acts 44th
6 Leg., 1st C.S., Ch. 427, Sec. 3.03.)

7 Source Law

8 Sec. 3.03. The authority may forest and
9 reforest and aid in the foresting and reforesting of
10 the watershed area of the Nueces River and its
11 tributaries.

12 Revisor's Note

13 Section 3.03, Chapter 427, Acts of the 44th
14 Legislature, 1st Called Session, 1935, refers to the
15 "watershed area of the Nueces River and its
16 tributaries." The revised law omits the reference to
17 "area" because, in context, "area" is included in the
18 meaning of "watershed."

19 Revised Law

20 Sec. 8511.0307. GROUNDWATER. (a) The authority may
21 conduct surveys and studies of the groundwater supplies in the
22 authority to:

23 (1) determine the location and quantity of groundwater
24 available for irrigation and other purposes; and

25 (2) develop and ascertain other information that in
26 the authority's judgment may be necessary to fully develop
27 irrigation and other water uses from the groundwater in the
28 authority.

29 (b) With the approval and under the supervision of the
30 commission, the authority may appropriate storm water and
31 floodwater to recharge underground freshwater-bearing sand and
32 aquifers in the Nueces River Basin.

33 (c) The authority shall cooperate with the Edwards Aquifer
34 Authority, or its lawful successor, and any other groundwater
35 conservation district inside the authority's boundaries in any
36 groundwater recharge project in an area where a groundwater

1 conservation district has jurisdiction. (Acts 44th Leg., 1st C.S.,
2 Ch. 427, Sec. 3.04.)

3 Source Law

4 Sec. 3.04. (a) The authority may conduct
5 surveys and studies of the groundwater supplies in the
6 authority for the purpose of determining the location
7 and quantity of groundwater available for irrigation
8 and other purposes, and to develop and ascertain such
9 other data and information as in the judgment of the
10 authority may be necessary to fully develop irrigation
11 and other water uses from the groundwater in the
12 authority.

13 (b) Subject to the requirements of the
14 applicable statutes, the approval of the commission,
15 and under the supervision of the commission, the
16 authority may appropriate storm water and floodwater
17 to recharge underground fresh water bearing sand and
18 aquifers in the Nueces River Basin.

19 (c) The authority shall cooperate with the
20 Edwards Underground Water District, or its lawful
21 successor, and any other groundwater districts within
22 the boundaries of the authority in any groundwater
23 recharge projects in areas where a groundwater
24 district has jurisdiction.

25 Revisor's Note

26 (1) Section 3.04(a), Chapter 427, Acts of the
27 44th Legislature, 1st Called Session, 1935, refers to
28 "data and information." The revised law omits the term
29 "data" because, in this context, the meaning of
30 "information" includes "data."

31 (2) Section 3.04(b), Chapter 427, Acts of the
32 44th Legislature, 1st Called Session, 1935, provides
33 that, "[s]ubject to the requirements of the applicable
34 statutes," the authority may appropriate storm water
35 and floodwater for certain purposes. The revised law
36 omits the quoted language for the reason stated in
37 Revisor's Note (1) to Section 8511.0302.

38 (3) Section 3.04(c), Chapter 427, Acts of the
39 44th Legislature, 1st Called Session, 1935, refers to
40 the "Edwards Underground Water District, or its lawful
41 successor." The Edwards Aquifer Authority is the
42 successor to the Edwards Underground Water District.
43 See Section 1.41, Chapter 626, Acts of the 73rd
44 Legislature, Regular Session, 1993. The revised law

1 is drafted accordingly.

2 (4) Section 3.04(c), Chapter 427, Acts of the
3 44th Legislature, 1st Called Session, 1935, refers to
4 "groundwater districts" and a "groundwater district."
5 The revised law substitutes "groundwater conservation
6 districts" and "groundwater conservation district,"
7 respectively, for the quoted language to conform to
8 the term used in Chapter 36, Water Code.

9 Revised Law

10 Sec. 8511.0308. WATER QUALITY CONTROL. (a) The authority
11 may exercise the powers vested in a river authority by Chapters 5,
12 7, 17, 26, and 30, Water Code, and Chapter 366, Health and Safety
13 Code.

14 (b) The authority may perform the licensing and other
15 functions authorized to be delegated to a local government by the
16 commission in connection with the regulation of private sewage
17 facilities under Chapter 366, Health and Safety Code.

18 (c) The authority may serve as the entity to provide
19 regional or area-wide waste collection, treatment, and disposal
20 systems as provided by Subchapter C, Chapter 26, Water Code. (Acts
21 44th Leg., 1st C.S., Ch. 427, Sec. 3.05.)

22 Source Law

23 Sec. 3.05. (a) The authority has and may
24 exercise all of the powers vested in river authorities
25 under Chapters 5, 7, 17, 26, and 30, Water Code, and
26 Chapter 366, Health and Safety Code.

27 (b) The authority is authorized to perform the
28 licensing and other functions authorized to be
29 delegated to local governments by the commission in
30 connection with the regulation of private sewage
31 facilities under Chapter 366, Health and Safety Code.

32 (c) The authority may serve as the entity to
33 provide regional or area-wide waste collection,
34 treatment, and disposal services, as provided in
35 Subchapter C, Chapter 26, Water Code.

36 Revised Law

37 Sec. 8511.0309. SOLID WASTE SERVICES. The authority may
38 acquire, construct, maintain, and provide facilities, equipment,
39 and disposal sites to provide solid waste collection,
40 transportation, treatment, and disposal services inside the

1 authority, charge for the services, and enter into a contract for
2 the services with any person. (Acts 44th Leg., 1st C.S., Ch. 427,
3 Sec. 3.06.)

4 Source Law

5 Sec. 3.06. The authority has the power to
6 purchase, acquire, construct, maintain, and provide
7 facilities, equipment, and disposal sites to furnish
8 solid waste collection, transportation, treatment,
9 and disposal services inside the authority, to charge
10 for the services, and to make contracts for the
11 services with any person.

12 Revisor's Note

13 Section 3.06, Chapter 427, Acts of the 44th
14 Legislature, 1st Called Session, 1935, refers to the
15 authority's power to "purchase" and "acquire" certain
16 property. The revised law omits "purchase" because it
17 is included in the meaning of "acquire."

18 Revised Law

19 Sec. 8511.0310. APPLICABILITY OF CERTAIN ENVIRONMENTAL
20 LAWS. The authority may exercise the powers and functions vested in
21 a river authority by Chapter 383, Health and Safety Code. (Acts
22 44th Leg., 1st C.S., Ch. 427, Sec. 3.26.)

23 Source Law

24 Sec. 3.26. In addition to the powers and
25 functions vested in the authority by this Act, the
26 authority has and may exercise all the powers and
27 functions vested in river authorities under the Clean
28 Air Financing Act (Article 4477-5a, Vernon's Texas
29 Civil Statutes).

30 Revisor's Note

31 (1) Section 3.26, Chapter 427, Acts of the 44th
32 Legislature, 1st Called Session, 1935, provides that
33 "[i]n addition to the powers and functions vested in
34 the authority by this Act," the authority has certain
35 powers and functions. The revised law omits the quoted
36 language because an accepted general principle of
37 statutory construction requires that a statute be
38 given cumulative effect with other statutes unless the
39 statute provides otherwise or unless the statute

1 conflicts with another statute.

2 (2) Section 3.26, Chapter 427, Acts of the 44th
3 Legislature, 1st Called Session, 1935, refers to the
4 "Clean Air Financing Act (Article 4477-5a, Vernon's
5 Texas Civil Statutes)." That act was revised in 1989
6 as Chapter 383, Health and Safety Code. Throughout
7 this chapter, the revised law is drafted accordingly.

8 Revised Law

9 Sec. 8511.0311. PARKS AND RECREATIONAL FACILITIES. The
10 authority may:

11 (1) acquire land adjacent to or in the vicinity of the
12 Nueces River or any of its tributaries for park and recreational
13 purposes; and

14 (2) acquire, construct, and maintain park and
15 recreational facilities on the land. (Acts 44th Leg., 1st C.S., Ch.
16 427, Sec. 3.07.)

17 Source Law

18 Sec. 3.07. The authority may acquire land
19 adjacent to or in the vicinity of the Nueces River or
20 any of its tributaries for park and recreational
21 purposes, and may acquire, construct, and maintain
22 park and recreational facilities on the land.

23 Revised Law

24 Sec. 8511.0312. PERMITS AND LICENSES. In the manner
25 provided by Chapters 5, 11, and 12, Water Code, the authority may
26 apply for any permit, license, franchise, or other grant of
27 authority it may require from the commission, the development
28 board, or any other federal, state, or local governmental agency in
29 exercising its powers and accomplishing the purposes under this
30 chapter. (Acts 44th Leg., 1st C.S., Ch. 427, Sec. 3.08.)

31 Source Law

32 Sec. 3.08. In the manner provided by Chapters 5,
33 11, and 12, Water Code, the authority may apply for any
34 permits, licenses, franchises, and other grants of
35 authority it may require from the commission, the
36 development board, or any other federal, state, or
37 local governmental agencies in exercising its powers
38 and accomplishing the purposes under this Act.

1 Revised Law

2 Sec. 8511.0313. SERVICE CONTRACTS AND CHARGES. (a) The
3 authority may enter into a service contract and may adopt
4 resolutions and orders establishing rates and providing for the
5 collection of fees and charges for:

6 (1) the sale or use of water;

7 (2) water transmission, treatment, and storage
8 facility services;

9 (3) solid and liquid waste collection, treatment, and
10 disposal services and facilities;

11 (4) the use of park and recreational facilities;

12 (5) the sale of power and electric energy; and

13 (6) other services or facilities sold, provided, or
14 supplied by the authority.

15 (b) The fees and charges must be sufficient to produce
16 revenue adequate to:

17 (1) pay expenses necessary for the operation and
18 maintenance of the authority's properties and facilities;

19 (2) pay the principal of or the interest on any bonds
20 or other obligations issued by the authority when due and payable;

21 (3) fulfill any reserve or other fund obligations of
22 the authority in connection with the bonds or other obligations;
23 and

24 (4) pay any other expenses the board may consider
25 necessary and proper for the authority's operations. (Acts 44th
26 Leg., 1st C.S., Ch. 427, Sec. 3.09.)

27 Source Law

28 Sec. 3.09. (a) The authority may enter into
29 service contracts and may adopt resolutions and orders
30 establishing rates and providing for the collection of
31 fees and charges for the sale or use of water, the
32 services of water transmission, treatment, and storage
33 facilities, solid and liquid waste collection,
34 treatment and disposal facilities and services, the
35 use of park and recreational facilities, sale of power
36 and electric energy, and any other services or
37 facilities sold, furnished, or supplied by the
38 authority.

39 (b) The fees and charges shall be sufficient to
40 produce revenue adequate to:

1 (1) pay expenses necessary for the
2 operation and maintenance of the properties and
3 facilities of the authority;

4 (2) pay the interest on or the principal of
5 any bonds or other obligations issued by the authority
6 when and as they become due and payable and to fulfill
7 any reserve or other fund obligations of the authority
8 in connection with the bonds or other obligations; and

9 (3) pay any other expenses the board may
10 consider necessary and proper for the operations of
11 the authority.

12 Revised Law

13 Sec. 8511.0314. USE OF REVENUE AND PROPERTY. The use of any
14 authority money or property for any purpose not provided by this
15 chapter is prohibited. (Acts 44th Leg., 1st C.S., Ch. 427, Sec.
16 4.06(b).)

17 Source Law

18 (b) The use of any money or property of the
19 authority for any purpose not provided in this Act is
20 prohibited.

21 Revisor's Note

22 Section 4.06(a), Chapter 427, Acts of the 44th
23 Legislature, 1st Called Session, 1935, provides that
24 all revenue accruing to the authority shall be used by
25 the authority pursuant to the act and any other law
26 relating to the authority. The revised law omits that
27 provision as unnecessary because the absence of the
28 provision does not imply that the authority is
29 authorized to take actions inconsistent with this
30 chapter or any other law relating to the authority.
31 The omitted law reads:

32 Sec. 4.06. (a) All revenue accruing
33 to the authority shall be used by the
34 authority pursuant to this Act and any other
35 law relating to the authority.

36 Revised Law

37 Sec. 8511.0315. ACQUISITION, MAINTENANCE, AND OPERATION OF
38 PROPERTY. The authority may purchase, lease, acquire by gift,
39 maintain, use, and operate property of any kind inside or outside
40 the authority that is appropriate for the exercise of its
41 functions. (Acts 44th Leg., 1st C.S., Ch. 427, Sec. 3.11(a).)

1 providing comparable replacement without enhancement of the
2 facility, after deducting from that cost the net salvage value
3 derived from the old facility.

4 (b) If the authority's exercise of the power of eminent
5 domain, the power of relocation, or any other power makes necessary
6 relocating, raising, rerouting, changing the grade of, or altering
7 the construction of a highway, railroad, electric transmission
8 line, telephone or telegraph property or facility, or pipeline, the
9 necessary action shall be accomplished at the authority's sole
10 expense. (Acts 44th Leg., 1st C.S., Ch. 427, Sec. 3.14.)

11 Source Law

12 Sec. 3.14. In the event that the authority, in
13 the exercise of the power of eminent domain or power of
14 relocation, or any other power, makes necessary the
15 relocation, raising, rerouting, or changing the grade
16 of or altering the construction of any highway,
17 railroad, electric transmission line, telephone or
18 telegraph properties and facilities, or pipelines, all
19 such necessary relocation, raising, rerouting, or
20 change in grade or alteration of construction, shall
21 be accomplished at the sole expense of the authority.
22 The term "sole expense" means the actual cost of the
23 relocation, raising, rerouting, or change in grade or
24 alteration of grade or construction in providing
25 comparable replacement without any enhancement of the
26 facilities, after deducting therefrom the net salvage
27 value derived from the old facility.

28 Revised Law

29 Sec. 8511.0319. DISPOSITION OF PROPERTY. The authority
30 may:

31 (1) sell any property or interest in property of any
32 kind owned by the authority by installments or otherwise, including
33 a sale in any manner prescribed or permitted by:

- 34 (A) Chapter 383, Health and Safety Code;
- 35 (B) Section 552.014, Local Government Code; or
- 36 (C) Chapter 30, Water Code; or

37 (2) lease, exchange, or otherwise dispose of any
38 property described by Subdivision (1) or interest in property.
39 (Acts 44th Leg., 1st C.S., Ch. 427, Sec. 3.11(b).)

40 Source Law

41 (b) It may also sell any property or interest in
42 property of any kind owned by the authority by

1 installments or otherwise, including sales in any
2 manner prescribed or permitted in Chapter 224, Acts of
3 the 56th Legislature, Regular Session, 1959, as
4 amended (Article 1109j, Vernon's Texas Civil
5 Statutes), Chapter 25 of the Water Code, and the Clean
6 Air Financing Act (Article 4477-5a, Vernon's Texas
7 Civil Statutes). The authority may also lease,
8 exchange, or otherwise dispose of any such property or
9 interest therein.

10 Revisor's Note

11 (1) Section 3.11(b), Chapter 427, Acts of the
12 44th Legislature, 1st Called Session, 1935, refers to
13 Chapter 224, Acts of the 56th Legislature, Regular
14 Session, 1959, as amended (Article 1109j, Vernon's
15 Texas Civil Statutes). Article 1109j was codified in
16 1987 as Section 402.014, Local Government Code.
17 Section 402.014, Local Government Code, was renumbered
18 as Section 552.014, Local Government Code, by Section
19 3.76(a)(2)(B), Chapter 885, Acts of the 80th
20 Legislature, Regular Session, 2007. The revised law
21 is drafted accordingly.

22 (2) Section 3.11(b), Chapter 427, Acts of the
23 44th Legislature, 1st Called Session, 1935, refers to
24 Chapter 25, Water Code. Chapter 25, Water Code, was
25 revised as Chapter 30 of that code by Chapter 870, Acts
26 of the 65th Legislature, Regular Session, 1977. The
27 revised law is drafted accordingly.

28 Revised Law

29 Sec. 8511.0320. GENERAL CONTRACT POWERS. The authority may
30 enter into a contract or execute an instrument that is necessary or
31 convenient for the exercise of its powers, rights, duties, and
32 functions. (Acts 44th Leg., 1st C.S., Ch. 427, Sec. 3.15(a).)

33 Source Law

34 Sec. 3.15. (a) The authority may make
35 contracts and execute instruments that are necessary
36 or convenient to the exercise of its powers, rights,
37 duties, and functions.

38 Revised Law

39 Sec. 8511.0321. AWARD OF CERTAIN CONTRACTS. (a) Any
40 construction, maintenance, operation, or repair contract, or

1 contract for the purchase of material, equipment, or supplies, or
2 any contract for services other than technical, scientific, legal,
3 fiscal, or other professional services, which will require an
4 estimated expenditure of more than \$10,000, or is for a term of six
5 months or more, shall be awarded to the lowest and best bidder.

6 (b) In the event of a catastrophe or calamity of any kind,
7 the authority may award a contract necessary to protect and
8 preserve the public health and welfare or the authority's property
9 without using bidding procedures.

10 (c) The authority:

11 (1) shall publish notice:

12 (A) to bidders once each week for three
13 consecutive weeks before the date set for awarding the contract;
14 and

15 (B) in a newspaper having general circulation in
16 the county or counties in which the contract is to be performed; and

17 (2) may publish notice in any other appropriate
18 publication.

19 (d) The notice is sufficient if it states the time and place
20 when and where the bids will be opened, the general nature of the
21 work to be done, or the material, equipment, or supplies to be
22 purchased, or the nonprofessional services to be rendered, and
23 states the terms upon which copies of the plans, specifications, or
24 other pertinent information may be obtained.

25 (e) A person who desires to bid on the construction of any
26 advertised work shall, on written application to the authority, be
27 provided a copy of the plans and specifications or other
28 engineering and architectural documents showing all of the details
29 of the work to be done. A charge may be made to cover the cost of
30 making the copy.

31 (f) A bid must be:

32 (1) in writing;

33 (2) sealed and delivered to the authority; and

34 (3) accompanied by a certified check drawn on a

1 responsible bank in this state or, at the discretion of the
2 authority, a bid bond from a company approved by the authority, in
3 an amount equal to at least one percent of the total amount bid.

4 (g) The authority shall open bids at the place specified in
5 the published notice and shall announce the bids. The place where
6 the bids are opened and announced must be open to the public. The
7 award of the contract shall be made by:

- 8 (1) the board; or
- 9 (2) the executive committee, if authorized by the
10 board.

11 (h) The person with whom a contract is made shall provide
12 the performance and payment bonds required by law.

13 (i) The amount of a check or bond provided under Subsection
14 (f) is forfeited to the authority if the successful bidder fails or
15 refuses to:

- 16 (1) enter into a proper contract; or
- 17 (2) provide a bond as required by law.

18 (j) The authority may reject any or all bids.

19 (k) The authority may waive any informality in the bids.

20 (l) This section does not prohibit the authority from taking
21 the following actions by negotiated contract and without necessity
22 for advertising for bids:

23 (1) purchasing or acquiring land or an interest in
24 land from any person;

25 (2) acquiring, constructing, or improving pollution
26 control or waste collection and disposal facilities in accordance
27 with Chapter 30, Water Code, Chapter 383, Health and Safety Code, or
28 other applicable statutes; or

29 (3) purchasing or acquiring surplus property from a
30 governmental entity. (Acts 44th Leg., 1st C.S., Ch. 427, Secs.
31 3.15(b), (c), (d), (e), (f), (h), (i).)

32 Source Law

33 (b) Any construction, maintenance, operation,
34 or repair contract, or contract for the purchase of
35 material, equipment, or supplies, or any contract for

1 services other than technical, scientific, legal,
2 fiscal, or other professional services, which will
3 require an estimated expenditure of more than \$10,000,
4 or is for a term of six months or more, shall be awarded
5 to the lowest and best bidder. A notice to bidders
6 shall be published once each week for three
7 consecutive weeks before the date set for awarding the
8 contract. In the event of a catastrophe or calamity of
9 any kind, the authority may let contracts necessary to
10 protect and preserve the public health and welfare or
11 the properties of the authority without using the
12 bidding procedures.

13 (c) The notice is sufficient if it states the
14 time and place when and where the bids will be opened,
15 the general nature of the work to be done, or the
16 material, equipment, or supplies to be purchased, or
17 the nonprofessional services to be rendered, and
18 states the terms upon which copies of the plans,
19 specifications, or other pertinent information may be
20 obtained.

21 (d) Publication of the notice shall be in a
22 newspaper having general circulation in the county or
23 counties in which the contract is to be performed. In
24 addition to publishing notice in a newspaper having
25 general circulation, the notice may also be published
26 in any other appropriate publication.

27 (e) Anyone desiring to bid on the construction
28 of any work which is advertised shall, on written
29 application to the authority, be furnished with a copy
30 of the plans and specifications or other engineering
31 and architectural documents showing the work to be
32 done and all of the details of the work to be done,
33 providing that a charge may be made to cover the cost
34 of making the copy. All bids to do the work shall be in
35 writing, and sealed and delivered to the authority,
36 and shall be accompanied by a certified check on some
37 responsible bank in the State of Texas or, at the
38 discretion of the authority, a bid bond from a company
39 approved by the authority, for at least one percent of
40 the total amount bid, and the amount of the check or
41 bond shall be forfeited to the authority in the event
42 the successful bidder shall fail or refuse to enter
43 into a proper contract or shall fail or refuse to
44 furnish bond as required by law. Any or all bids may be
45 rejected by the authority and the authority may waive
46 any informality in the bids.

47 (f) Bids shall be opened at the place specified
48 in the published notice and shall be announced by the
49 authority. The place where the bids are opened and
50 announced shall always be open to the public. The award
51 of the contract shall be made by the board, or by the
52 executive committee if so authorized by the board.

53 (h) The person, firm, or corporation to whom the
54 contract is let shall provide the performance and
55 payment bonds required by law.

56 (i) The provisions of this section do not
57 prohibit the authority from purchasing or acquiring
58 land or interests in land from any person, or from
59 acquiring, constructing, or improving pollution
60 control or waste collection and disposal facilities in
61 accordance with Chapter 30, Water Code, the Clean Air
62 Financing Act (Chapter 4477-5a, Vernon's Texas Civil
63 Statutes), or other applicable statutes, or purchasing
64 or acquiring surplus property from any governmental
65 entity by negotiated contract and without necessity
66 for advertising for bids.

1 Revisor's Note

2 Section 3.15(h), Chapter 427, Acts of the 44th
3 Legislature, 1st Called Session, 1935, requires a
4 person, "firm, or corporation" to provide certain
5 bonds. The revised law omits the quoted language
6 because under Section 311.005(2), Government Code
7 (Code Construction Act), "person" is defined to
8 include any legal entity.

9 Revised Law

10 Sec. 8511.0322. CONSTRUCTION CONTRACTS: PAYMENT. (a) The
11 contract price of any construction contract of the authority may be
12 paid in partial payments as the work progresses, but the payments
13 may not exceed 90 percent of the amount due at the time of the
14 payments as shown by the authority engineer's report.

15 (b) The executive director shall, at all times during the
16 progress of the work, inspect the work or have the work inspected by
17 the authority engineer or the engineer's assistants.

18 (c) On certification of the executive director and the
19 authority engineer of the completion of the contract in accordance
20 with its terms and, in the case of any construction contract for
21 which notice to bidders is required by Section 8511.0321(c), on
22 board approval, the authority shall draw a warrant on its
23 depository to pay the balance due on the contract. (Acts 44th Leg.,
24 1st C.S., Ch. 427, Sec. 3.15(g).)

25 Source Law

26 (g) The contract price of all construction
27 contracts of the authority may be paid in partial
28 payments as the work progresses, but the payments
29 shall not exceed 90 percent of the amount due at the
30 time of the payment as shown by the report of the
31 engineer of the authority. The executive director
32 shall, at all times during the progress of the work,
33 inspect the same or have the same inspected by the
34 authority's engineer or his assistants. On
35 certification of the executive director and the
36 authority's engineer of the completion of the contract
37 in accordance with its terms, and in the case of any
38 construction contract for which notice to bidders is
39 required by Section 3.15(b) of this Act, on approval of
40 the board, the authority shall draw a warrant on its
41 depository to pay the balance due thereon.

1 Revisor's Note

2 Section 3.15(g), Chapter 427, Acts of the 44th
3 Legislature, 1st Called Session, 1935, refers to any
4 construction contract for which notice to bidders is
5 required by "Section 3.15(b) of this Act." Section
6 3.15(b) is revised in pertinent part in this chapter in
7 Section 8511.0321(c), and the revised law is drafted
8 accordingly.

9 Revised Law

10 Sec. 8511.0323. CONFLICT OF INTEREST IN CERTAIN CONTRACTS.
11 An officer, agent, or employee of the authority who is financially
12 interested in a contract of a type described by Section
13 8511.0321(a) shall disclose that fact to the board before the board
14 votes on the acceptance of the contract. (Acts 44th Leg., 1st C.S.,
15 Ch. 427, Sec. 3.15(j).)

16 Source Law

17 (j) An officer, agent, or employee of the
18 authority who is financially interested in a contract
19 of the types enumerated in Subsection (b) of this
20 section shall disclose that fact to the board before
21 the board votes on the acceptance of the contract.

22 Revisor's Note

23 Section 3.15(j), Chapter 427, Acts of the 44th
24 Legislature, 1st Called Session, 1935, refers to a
25 contract of the types enumerated in "Subsection (b) of
26 this section." Section 3.15(b) is revised in
27 pertinent part in this chapter in Section
28 8511.0321(a), and the revised law is drafted
29 accordingly.

30 Revised Law

31 Sec. 8511.0324. SURVEYS AND ENGINEERING INVESTIGATIONS.
32 The authority shall conduct surveys and engineering investigations
33 to develop information for its use. (Acts 44th Leg., 1st C.S., Ch.
34 427, Sec. 3.19 (part).)

35 Source Law

36 Sec. 3.19. The authority shall make surveys and

1 engineering investigations to develop information for
2 its use, and

3 Revised Law

4 Sec. 8511.0325. PLANS. The board may:

5 (1) make and determine plans necessary to accomplish
6 the purposes for which the authority is created; and

7 (2) perform all actions useful and helpful in carrying
8 out the plans described by Subdivision (1) and accomplishing the
9 authority's purposes. (Acts 44th Leg., 1st C.S., Ch. 427, Sec. 3.19
10 (part).)

11 Source Law

12 Sec. 3.19. . . . the board may make and
13 determine plans necessary to accomplish the purposes
14 for which the authority is created and do all things
15 useful and helpful in carrying out the plans and
16 accomplishing the purposes of the authority.

17 Revised Law

18 Sec. 8511.0326. ACCESS TO AUTHORITY PROPERTY. (a) To
19 provide for the safety and welfare of persons and their property or
20 for the protection and security of authority property and
21 facilities, the board may adopt rules with respect to authority
22 property and any water reservoir or dam the construction,
23 operation, or management of which is participated in by the
24 authority to control and regulate:

25 (1) ingress, egress, and use; and

26 (2) the operation of land and water vehicles.

27 (b) All public roads, streets, and state highways that as of
28 September 1, 1975, traversed the areas to be covered by any
29 impounded water shall remain open as a way of public passing to and
30 from the lakes created, unless changed by lawful authority. (Acts
31 44th Leg., 1st C.S., Ch. 427, Sec. 3.20.)

32 Source Law

33 Sec. 3.20. (a) To provide for the safety and
34 welfare of persons and their property or for the
35 protection and security of the property and facilities
36 of the authority, the board may adopt rules with
37 respect to the properties of the authority and any
38 water reservoir or dam, the construction, operation,
39 or management of which is participated in by the
40 authority, to control and regulate ingress, egress,
41 and use, and the operation of land and water vehicles.

1 (b) All public roads, streets, and state
2 highways now traversing the areas to be covered by any
3 impounded water shall remain open as a way of public
4 passing to and from the lakes created, unless changed
5 by lawful authority.

6 Revisor's Note

7 Section 3.20(b), Chapter 427, Acts of the 44th
8 Legislature, 1st Called Session, 1935, refers to
9 public roads, streets, and state highways "now"
10 traversing certain areas. The revised law refers to
11 public roads, streets, and state highways "that as of
12 September 1, 1975," traversed those areas because that
13 was the effective date of Chapter 699, Acts of the 64th
14 Legislature, Regular Session, 1975, which added
15 Section 3.20.

16 Revised Law

17 Sec. 8511.0327. LIMITATIONS ON POWERS AND DUTIES;
18 COMMISSION APPROVAL OF CERTAIN PLANS. (a) The powers granted and
19 duties prescribed by this chapter are subject to all legislative
20 declarations of public policy in the maximum use of the storm water,
21 floodwater, and unappropriated flow water of the Nueces River Basin
22 for the purposes for which the authority is created.

23 (b) The commission shall consider the adequacy of, and
24 approve or refuse to approve, any flood control or conservation
25 improvement plan that:

26 (1) is devised by the authority to achieve a plan or
27 purpose for which the authority was created; and

28 (2) contemplates improvements that are to be
29 supervised by the commission under general law. (Acts 44th Leg.,
30 1st C.S., Ch. 427, Secs. 3.25(a) (part), (b).)

31 Source Law

32 Sec. 3.25. (a) The powers and duties granted
33 and prescribed by this Act are taken subject to all
34 legislative declarations of public policy in the
35 maximum utilization of the storm, flood, and
36 unappropriated flow water of the Nueces River basin
37 for the purposes for which the authority is created and
38

39 (b) The commission is charged with the authority
40 and duty to approve or refuse to approve the adequacy
41 of any plan or plans for flood control or conservation

1 improvement purposes devised by the authority for the
2 achievement of the plans and purposes intended in the
3 creation of the authority and that contemplate
4 improvements supervised by the commission under the
5 provisions of the general law.

6 Revisor's Note

7 Section 3.25(a), Chapter 427, Acts of the 44th
8 Legislature, 1st Called Session, 1935, provides that
9 the authority's powers and duties are subject to the
10 supervision of the state, acting through the
11 commission. The revised law omits the provision for
12 the reason stated in Revisor's Note (1) to Section
13 8511.0302. The omitted law reads:

14 (a) [The powers and duties granted
15 and prescribed by this Act are] . . .
16 subject to the continuing right of
17 supervision of the state through the
18 commission.

19 Revisor's Note
20 (End of Subchapter)

21 (1) Section 2.11, Chapter 427, Acts of the 44th
22 Legislature, 1st Called Session, 1935, requires the
23 authority to adopt a seal. The revised law omits that
24 provision because it duplicates, in substance, Section
25 49.061, Water Code, which requires the directors to
26 adopt an authority seal. The omitted law reads:

27 Sec. 2.11. The authority shall adopt
28 a seal, the form of which it may alter from
29 time to time.

30 (2) Section 2.12, Chapter 427, Acts of the 44th
31 Legislature, 1st Called Session, 1935, provides that
32 the authority may sue and be sued in its corporate
33 name. The revised law omits that provision because it
34 duplicates part of Section 49.066(a), Water Code. The
35 omitted law reads:

36 Sec. 2.12. The authority may sue and
37 be sued in its corporate name.

38 (3) Section 3.01(c), Chapter 427, Acts of the
39 44th Legislature, 1st Called Session, 1935, provides
40 that the powers granted to the authority by that

1 chapter are cumulative of powers granted by other law.
2 The revised law omits the provision because an
3 accepted general principle of statutory construction
4 requires that a statute be given cumulative effect
5 with other statutes unless the statute provides
6 otherwise or unless the statute conflicts with another
7 statute. The omitted law reads:

8 (c) The powers granted to the
9 authority by this Act are cumulative of all
10 powers granted by other laws which are by
11 their terms applicable to the authority.

12 (4) Section 3.13, Chapter 427, Acts of the 44th
13 Legislature, 1st Called Session, 1935, provides that
14 the authority may use public roadways, streets,
15 alleys, or public easements. The revised law omits the
16 provision because it duplicates, in substance, Section
17 49.220, Water Code, which grants all districts a
18 right-of-way for all public roads. The omitted law
19 reads:

20 Sec. 3.13. The authority shall have
21 the right, power, and authority to use any
22 and all public roadways, streets, alleys,
23 or public easements inside or outside the
24 boundaries of the authority in the
25 accomplishment of its purposes without the
26 necessity of securing a franchise.

27 (5) Section 3.23, Chapter 427, Acts of the 44th
28 Legislature, 1st Called Session, 1935, provides that
29 the authority may exercise all powers vested in
30 political subdivisions under Chapters 5, 16, and 17,
31 Water Code. The revised law omits that provision as
32 unnecessary because the applicable provisions of those
33 chapters apply by their own terms. The omitted law
34 reads:

35 Sec. 3.23. The authority has and may
36 exercise all the powers vested in political
37 subdivisions under Chapters 5, 16, and 17,
38 Water Code, including the powers necessary
39 to enable the authority to participate in:

40 (1) programs administered by
41 the development board for:
42 (A) the acquisition and

1 development of facilities;
2 (B) the sale or lease of
3 facilities; and
4 (C) financial assistance
5 to political subdivisions; and
6 (2) other programs as are now or
7 may hereafter be authorized.

8 (6) Section 2, Chapter 699, Acts of the 64th
9 Legislature, Regular Session, 1975, provides that the
10 rights, privileges, authority, and functions granted
11 by that act to the authority and the authority itself
12 are expressly subject to Chapters 5, 7, 17, and 26,
13 Water Code, and Chapter 366, Health and Safety Code.
14 The revised law omits that provision as unnecessary
15 because the applicable provisions of those chapters
16 apply by their own terms. The omitted law reads:

17 Sec. 2. The rights, privileges,
18 authority, and functions herein granted to
19 the authority and the authority itself are
20 expressly subject to Chapters 5, 7, 17, and
21 26, Water Code, and Chapter 366, Health and
22 Safety Code.

23 SUBCHAPTER D. REGULATORY POWERS; ENFORCEMENT AND COURT REVIEW

24 PROVISIONS

25 Revised Law

26 Sec. 8511.0401. ADOPTION AND ENFORCEMENT OF RULES. (a) The
27 authority may adopt and enforce rules reasonably required to
28 effectuate this chapter.

29 (b) In adopting rules, the board shall comply, as
30 appropriate, with the requirements of Chapters 2001 and 2002,
31 Government Code.

32 (c) The board shall print its rules and provide copies to
33 any person on written request. (Acts 44th Leg., 1st C.S., Ch. 427,
34 Sec. 3.16.)

35 Source Law

36 Sec. 3.16. (a) The authority may adopt and
37 enforce rules reasonably required to effectuate the
38 provisions of this Act.

39 (b) In adopting rules, the board shall comply,
40 as appropriate, with the requirements of Chapter 274,
41 Acts of the 57th Legislature, Regular Session, 1961,
42 as amended (Article 6252-13, Vernon's Texas Civil
43 Statutes).

44 (c) The board shall print its rules and furnish

1 copies to any person on written request.

2 Revisor's Note

3 Section 3.16(b), Chapter 427, Acts of the 44th
4 Legislature, 1st Called Session, 1935, refers to
5 "Chapter 274, Acts of the 57th Legislature, Regular
6 Session, 1961, as amended (Article 6252-13, Vernon's
7 Texas Civil Statutes)." Article 6252-13 was repealed
8 by Chapter 61, Acts of the 64th Legislature, Regular
9 Session, 1975, which enacted the Administrative
10 Procedure and Texas Register Act (Article 6252-13a,
11 Vernon's Texas Civil Statutes). Article 6252-13a was
12 codified in 1993 as Chapters 2001 and 2002, Government
13 Code. The revised law is drafted accordingly.

14 Revised Law

15 Sec. 8511.0402. CIVIL PENALTY; INJUNCTIVE RELIEF. (a) A
16 person who violates an authority rule or order is subject to a civil
17 penalty of not less than \$50 or more than \$1,000 for each day of
18 violation.

19 (b) The authority may sue to recover the penalty in a
20 district court in the county in which the violation occurred. A
21 penalty shall be paid to the authority.

22 (c) The authority may sue for injunctive relief in a
23 district court in the county in which a violation of a rule or order
24 occurred or is threatened.

25 (d) The authority may sue for injunctive relief and a
26 penalty in the same proceeding. (Acts 44th Leg., 1st C.S., Ch. 427,
27 Sec. 3.17.)

28 Source Law

29 Sec. 3.17. (a) A person who violates a rule or
30 order of the authority is subject to a civil penalty of
31 not less than \$50 nor more than \$1,000 for each day of
32 violation. The authority may sue to recover the
33 penalty in a district court in the county where the
34 violation occurred. Penalties shall be paid to the
35 authority.

36 (b) The authority may sue for injunctive relief
37 in a district court in the county where a violation of
38 any rule or orders occurred or is threatened.

39 (c) The authority may sue for injunctive relief
40 and penalties in the same proceeding.

1 Revised Law

2 Sec. 8511.0403. COURT REVIEW. (a) A person adversely
3 affected by an authority rule or order may sue the authority in a
4 district court to set aside the rule or order before the 31st day
5 after the date on which the rule or order took effect.

6 (b) Venue for a suit under Subsection (a) is in:

7 (1) a county located wholly or partly in the authority
8 in which the plaintiff resides; or

9 (2) the county in which the authority maintains its
10 principal office. (Acts 44th Leg., 1st C.S., Ch. 427, Sec. 3.18.)

11 Source Law

12 Sec. 3.18. (a) A person who is adversely
13 affected by a rule or order of the authority may sue
14 the authority in a district court to set aside the rule
15 or order before the 31st day after the day on which the
16 rule or order took effect.

17 (b) Venue for suits under Subsection (a) of this
18 section is in any county located wholly or partially in
19 the authority where the plaintiff resides or in the
20 county in which the authority maintains its principal
21 office.

22 SUBCHAPTER E. GENERAL FINANCIAL PROVISIONS

23 Revised Law

24 Sec. 8511.0501. DISBURSEMENT OF MONEY. The authority may
25 disburse its money only by a check, draft, order, or other
26 instrument signed by a person authorized to do so in the board's
27 bylaws or by board resolution. (Acts 44th Leg., 1st C.S., Ch. 427,
28 Sec. 4.01.)

29 Source Law

30 Sec. 4.01. The authority's money may be
31 disbursed only by check, draft, order, or other
32 instrument, signed by the person or persons authorized
33 to do so in the board's bylaws, or by resolution of the
34 board.

35 Revisor's Note

36 Section 4.01, Chapter 427, Acts of the 44th
37 Legislature, 1st Called Session, 1935, provides that
38 authority money be disbursed only by an instrument
39 signed by "the person or persons" authorized to do so
40 in the board's bylaws. The revised law omits "or

1 persons" as unnecessary because Section 311.012(b),
2 Government Code (Code Construction Act), provides that
3 a reference to the singular includes the plural and
4 vice versa.

5 Revised Law

6 Sec. 8511.0502. ACCOUNTS, CONTRACTS, AND OTHER RECORDS;
7 PUBLIC INSPECTION. (a) The authority shall keep complete and
8 accurate accounts of its business transactions in accordance with
9 generally accepted methods of accounting.

10 (b) The authority shall keep its accounts, contracts,
11 documents, minutes, and other records at its principal office.

12 (c) Except as otherwise required by law, the authority may
13 not disclose a record that it has relating to a trade secret or the
14 economics of operation of business or industry.

15 (d) Except as provided by Subsection (c), the authority
16 shall permit reasonable public inspection of its records during
17 regular business hours. (Acts 44th Leg., 1st C.S., Ch. 427, Secs.
18 2.10(a), (c), (d), (e).)

19 Source Law

20 Sec. 2.10. (a) The authority shall keep
21 complete and accurate accounts of its business
22 transactions in accordance with generally accepted
23 methods of accounting.

24 (c) The authority shall keep its accounts,
25 contracts, documents, minutes, and other records at
26 its principal office.

27 (d) Except as otherwise required by law, the
28 authority shall not disclose any records that it has
29 relating to trade secrets or economics of operation of
30 business or industries.

31 (e) Except as provided in Subsection (d) of this
32 section, the authority shall permit reasonable public
33 inspection of its records during regular business
34 hours.

35 Revised Law

36 Sec. 8511.0503. FEES AND CHARGES. (a) The authority shall
37 establish fees and charges.

38 (b) The fees and charges may not exceed the amount necessary
39 to fulfill the obligations imposed on the authority by this
40 chapter. (Acts 44th Leg., 1st C.S., Ch. 427, Sec. 4.02.)

1 Source Law

2 Sec. 4.02. The authority shall establish fees
3 and charges which may not be higher than necessary to
4 fulfill the obligations imposed on it by this Act.

5 Revised Law

6 Sec. 8511.0504. TRUST MONEY. Money collected by or
7 donated, granted, loaned, or advanced to the authority is trust
8 money for the purposes provided by this chapter. (Acts 44th Leg.,
9 1st C.S., Ch. 427, Sec. 4.05.)

10 Source Law

11 Sec. 4.05. Money collected by or donated,
12 granted, loaned, or advanced to the authority is
13 declared to be trust funds for the purposes provided in
14 this Act.

15 Revisor's Note

16 Section 4.05, Chapter 427, Acts of the 44th
17 Legislature, 1st Called Session, 1935, refers to the
18 "trust funds" of the authority. Throughout this
19 chapter, the revised law substitutes "money" for
20 "funds" (except where a specific type of fund is
21 indicated) because, in context, the meaning is the
22 same and "money" is the more commonly used term.

23 Revised Law

24 Sec. 8511.0505. DEPOSITORY. (a) The board shall designate
25 one or more banks inside or outside the authority to serve as a
26 depository for authority money.

27 (b) Authority money shall be deposited in a depository
28 designated by the board, except that the following may be handled as
29 provided in a trust indenture or bond resolution:

- 30 (1) bond proceeds;
31 (2) money pledged to pay bonds;
32 (3) money placed in special funds; and
33 (4) money remitted to a bank of payment for the payment

34 of the principal of and interest on bonds.

35 (c) The board shall prescribe the term of service for a
36 depository.

1 (d) Before designating a depository, the board shall:
2 (1) publish notice one time in one or more newspapers
3 of general circulation in the authority that are specified by the
4 board; or
5 (2) mail a copy of the notice to each bank inside the
6 authority.
7 (e) The notice must:
8 (1) state the time and place at which the board will
9 meet to designate a depository; and
10 (2) invite the banks inside the authority to submit
11 applications to be designated a depository.
12 (f) At the time stated in the notice, the board shall:
13 (1) consider the application and the management and
14 condition of each bank that applies; and
15 (2) designate as a depository the bank or banks:
16 (A) that offer the most favorable terms for
17 handling authority money; and
18 (B) that the board finds have proper management
19 and are in condition to handle authority money.
20 (g) Membership on the board of an officer or director of a
21 bank does not disqualify the bank from being designated as a
22 depository.
23 (h) If the board does not receive any applications before
24 the time stated in the notice, the board shall designate one or more
25 banks inside or outside the authority on terms that the board finds
26 advantageous to the authority. (Acts 44th Leg., 1st C.S., Ch. 427,
27 Secs. 4.09(a) (part), (b), (c), (d).)

28 Source Law

29 Sec. 4.09. (a) The board shall designate one
30 or more banks inside or outside the authority to serve
31 as depository for the funds of the authority. All
32 money of the authority shall be deposited in the
33 depository bank or banks except that bond proceeds,
34 money pledged to pay bonds, money placed in special
35 funds, and money remitted to a bank of payment for the
36 payment of principal of and interest on bonds, may be
37 handled as provided in a trust indenture or bond
38 resolution. . . .
39 (b) Before designating a depository bank or

1 banks, the board shall issue a notice stating the time
2 and place when and where the board will meet for such
3 purposes and inviting the banks in the authority to
4 submit applications to be designated depositories.
5 The term of service for depositories shall be
6 prescribed by the board. The notice shall be published
7 one time in a newspaper or newspapers of general
8 circulation in the authority and specified by the
9 board, or in lieu of such publication, a copy of such
10 notice may be mailed to each bank in the authority.

11 (c) At the time mentioned in the notice, the
12 board shall consider the applications and the
13 management and condition of the banks filing them, and
14 shall designate as depositories the bank or banks
15 which offer the most favorable terms and conditions
16 for the handling of the funds of the authority and
17 which the board finds have proper management and are in
18 condition to warrant handling of authority funds.
19 Membership on the board of an officer or director of a
20 bank shall not disqualify such bank from being
21 designated as depository.

22 (d) If no applications are received by the time
23 stated in the notice, the board shall designate some
24 bank or banks inside or outside the authority on such
25 terms and conditions as it may find advantageous to the
26 authority.

27 Revisor's Note

28 (1) Section 4.09(a), Chapter 427, Acts of the
29 44th Legislature, 1st Called Session, 1935, requires a
30 bank to secure authority money deposited at the bank in
31 the manner provided by law for the security of county
32 money, to the extent that the authority money
33 deposited is not insured by the Federal Deposit
34 Insurance Corporation. The revised law omits the
35 provision because it duplicates, in substance,
36 Sections 2257.021 and 2257.022, Government Code, which
37 establish the amount and manner of security required
38 for a deposit of public funds. Those sections apply to
39 the security for authority money under Sections
40 2257.002 and 2257.004, Government Code. The omitted
41 law reads:

42 (a) . . . To the extent that funds in
43 the depository banks or a trustee bank are
44 not invested or insured by the Federal
45 Deposit Insurance Corporation, they shall
46 be secured in the manner provided by law for
47 the security of county funds.

48 (2) Sections 4.09(c) and (d), Chapter 427, Acts
49 of the 44th Legislature, 1st Called Session, 1935,

1 refer to the "terms and conditions" that a bank
2 proposes or agrees to for serving as the authority's
3 depository. The revised law omits "conditions"
4 because, in context, the meaning of "conditions" is
5 included in the meaning of "terms."

6 Revised Law

7 Sec. 8511.0506. INVESTMENT OF AUTHORITY MONEY; APPLICATION
8 OF INCOME FROM INVESTMENTS. (a) Money in the authority's treasury
9 that is not required for the current payment of obligations of the
10 authority or for sinking funds and that the board considers
11 available for investment may be invested or reinvested by the
12 authority in:

13 (1) direct obligations of the United States;

14 (2) obligations the principal and interest of which
15 are guaranteed by the United States;

16 (3) direct obligations of or participation
17 certificates guaranteed by:

18 (A) a farm credit bank;

19 (B) the Federal National Mortgage Association;

20 (C) a federal home loan bank;

21 (D) a bank for cooperatives; or

22 (E) the successor or successors to any of the
23 entities listed in this subdivision;

24 (4) certificates of deposit of a bank or trust company
25 the deposits of which are fully secured by a pledge of securities of
26 any of the kind specified by Subdivision (3);

27 (5) other securities made eligible for investment
28 under this section by other laws and constitutional provisions; or

29 (6) a combination of the investments listed in this
30 subsection.

31 (b) The board shall determine the type and maturity of
32 investments made under this section.

33 (c) A resolution relating to the issuance of bonds must
34 provide appropriate recitals with regard to the investment of money

1 in funds established in connection with the authorization of the
2 bonds.

3 (d) The board shall direct the application of income from
4 investments made under this section. (Acts 44th Leg., 1st C.S., Ch.
5 427, Sec. 4.07.)

6 Source Law

7 Sec. 4.07. Any funds in the treasury of the
8 authority which are not required for current payment
9 of obligations of the authority or for sinking funds
10 and which the board considers available for investment
11 may be invested or reinvested by the authority from
12 time to time in direct obligations of or obligations
13 the principal and interest of which are guaranteed by
14 the United States; in direct obligations of or
15 participation certificates guaranteed by the Federal
16 Intermediate Credit Banks, Federal Land Banks, Federal
17 National Mortgage Association, Federal Home Loan
18 Banks, Banks for Cooperatives, or the successor or
19 successors to any of those entities, and in
20 certificates of deposit of any bank or trust company
21 the deposits of which are fully secured by a pledge of
22 securities of any of the kind hereinabove specified;
23 in any other securities made eligible for such
24 investment by other laws and constitutional
25 provisions; or in any combination of the foregoing.
26 The type and maturity of investments made hereunder
27 shall be determined by the board which, in the case of
28 funds established in connection with the authorization
29 of bonds, shall provide appropriate recitals with
30 regard thereto in the resolutions relating to the
31 issuance of such bonds. Income and profits on such
32 investments shall be applied as directed by the board.

33 Revisor's Note

34 (1) Section 4.07, Chapter 427, Acts of the 44th
35 Legislature, 1st Called Session, 1935, refers to
36 investment or reinvestment in direct obligations of or
37 participation certificates guaranteed by the "Federal
38 Intermediate Credit Banks" and the "Federal Land
39 Banks." Under the Agricultural Credit Act of 1987
40 (Pub. L. No. 100-233), each of the 12 federal
41 intermediate credit banks was merged with a federal
42 land bank to create 12 farm credit banks. See 12
43 U.S.C. Section 2011. The revised law reflects that
44 change.

45 (2) Section 4.07, Chapter 427, Acts of the 44th
46 Legislature, 1st Called Session, 1935, refers to

1 "[i]ncome and profits" from investments. The revised
2 law omits the reference to "profits" because "profits"
3 is included in the meaning of "income."

4 Revised Law

5 Sec. 8511.0507. FISCAL YEAR. The authority's fiscal year
6 ends on August 31 of each year. (Acts 44th Leg., 1st C.S., Ch. 427,
7 Sec. 4.08(a).)

8 Source Law

9 Sec. 4.08. (a) The fiscal year of the
10 authority ends on August 31 of each year.

11 Revised Law

12 Sec. 8511.0508. AUDIT. (a) In addition to including the
13 information required by Subchapter G, Chapter 49, Water Code, the
14 audit report prepared under that subchapter must state:

15 (1) the amount of money received by the authority
16 under this chapter during the preceding fiscal year; and

17 (2) how, to whom, and for what purpose the money was
18 spent.

19 (b) A copy of the audit report prepared under Subchapter G,
20 Chapter 49, Water Code, shall be filed:

21 (1) as required by Section 49.194, Water Code;

22 (2) with the governor;

23 (3) with the lieutenant governor;

24 (4) with the speaker of the house of representatives;

25 and

26 (5) with the comptroller. (Acts 44th Leg., 1st C.S.,
27 Ch. 427, Secs. 4.08(b) (part), (c); New.)

28 Source Law

29 (b) . . . The audit shall show the amount of
30 money received by the authority under this Act during
31 the preceding fiscal year, and how, to whom, and for
32 what purpose the money was spent.

33 (c) A copy of the audit report shall be filed
34 with the authority, the governor, the lieutenant
35 governor, the speaker of the house of representatives,
36 the commission, and the comptroller of public
37 accounts.

1 Revisor's Note

2 (1) Section 4.08, Chapter 427, Acts of the 44th
3 Legislature, 1st Called Session, 1935, refers to
4 various audit procedures, including requirements
5 regarding the contents of, and the filing of copies of,
6 the audit report. The revised law omits certain of
7 those procedures for the following reasons. Chapter
8 49, Water Code, which was enacted by Chapter 715, Acts
9 of the 74th Legislature, Regular Session, 1995,
10 applies to the authority by application of Sections
11 49.001 and 49.002 of that chapter. As further detailed
12 in the revisor's notes that follow, certain procedural
13 requirements of Section 4.08, Chapter 427, have been
14 omitted as superseded by Subchapter G, Chapter 49,
15 Water Code. Section 49.191(b), Water Code, provides
16 that in all areas of conflict Subchapter G "shall take
17 precedence over all prior statutory enactments."

18 For context and the convenience of the reader,
19 the revised law adds references to the audit report
20 prepared under Subchapter G, Chapter 49, Water Code,
21 and to Section 49.194 of that code, which governs the
22 filing of the report.

23 The revised law omits the requirement that a copy
24 of the audit report be filed with the authority because
25 it duplicates or is superseded by Section 49.194(c),
26 Water Code.

27 The Texas Commission on Environmental Quality is
28 the successor to the Texas Water Rights Commission.
29 The revised law omits a requirement that a copy of the
30 audit report be filed with the Texas Commission on
31 Environmental Quality because it duplicates or is
32 superseded by Section 49.194(a), Water Code.

33 (2) Section 4.08(b), Chapter 427, Acts of the
34 44th Legislature, 1st Called Session, 1935, provides

1 that, on or before January 1 following the close of
2 each fiscal year, the state auditor shall audit the
3 books and accounts of the authority for the preceding
4 fiscal year. The revised law omits that provision as
5 superseded by Section 49.191, Water Code (enacted by
6 Section 2, Chapter 715, Acts of the 74th Legislature,
7 Regular Session, 1995), which requires an annual audit
8 by a certified public accountant or public accountant
9 holding a permit from the Texas State Board of Public
10 Accountancy to be completed within 120 days after the
11 close of the authority's fiscal year. The omitted law
12 reads:

13 (b) On or before January 1 following
14 the close of each fiscal year, the state
15 auditor shall audit the books and accounts
16 of the authority for the preceding fiscal
17 year. . . .

18 (3) Section 4.08(d), Chapter 427, Acts of the
19 44th Legislature, 1st Called Session, 1935, prescribes
20 the procedure for the reimbursement of the state by the
21 authority for the cost of the audit. The revised law
22 omits that provision because, to the extent it
23 requires the authority to pay the cost of the audit, it
24 duplicates Section 49.191(a), Water Code, and, to the
25 extent it requires that the payment be made to the
26 state, it is superseded by Sections 49.191(b) and (c),
27 Water Code (enacted by Section 2, Chapter 715, Acts of
28 the 74th Legislature, Regular Session, 1995), which
29 provide that the person who performs the audit shall be
30 a certified public accountant or public accountant
31 holding a permit from the Texas State Board of Public
32 Accountancy. The omitted law reads:

33 (d) After completing the audit
34 report, the state auditor shall prepare a
35 statement showing the actual cost of the
36 audit and shall certify the statement to the
37 governor for his approval. When the
38 statement is approved by the governor, it
39 shall be delivered to the authority. The

1 authority shall pay for the cost of the
2 audit by depositing the money therefor with
3 the State Treasurer, who shall place the
4 money in the general revenue fund.

5 (4) Section 4.08(e), Chapter 427, Acts of the
6 44th Legislature, 1st Called Session, 1935, provides
7 that Section 4.08 does not prohibit the authority from
8 employing the professional services of accountants for
9 any purposes. The revised law omits that provision as
10 unnecessary because the provisions of Section 4.08
11 pertaining to the conducting of the audit by the state
12 auditor are omitted from the revised law for the reason
13 stated in Revisor's Notes (2) and (3) and therefore
14 there is no reason the revised law would be interpreted
15 as prohibiting the authority from employing the
16 services of an accountant for any purpose. The omitted
17 law reads:

18 (e) Nothing herein shall prohibit the
19 authority from employing the professional
20 services of accountants for any purpose.

21 SUBCHAPTER F. TAX PROVISIONS

22 Revised Law

23 Sec. 8511.0601. MAINTENANCE AND ADMINISTRATION TAX. (a)
24 The board may impose ad valorem taxes in amounts approved at an
25 election held in accordance with Section 8511.0602 for:

26 (1) the maintenance of the authority and its
27 improvements; or

28 (2) the authority's administrative expenses.

29 (b) The maintenance tax and administration tax may not
30 exceed the maximum rate approved at the election, and the rate
31 remains in effect until changed by a subsequent election. The tax
32 rate may not exceed the limit specified by Section 8511.0604. (Acts
33 44th Leg., 1st C.S., Ch. 427, Sec. 5.05.)

34 Source Law

35 Sec. 5.05. (a) The board may levy and collect
36 ad valorem taxes for the maintenance of the authority
37 and its improvements or for administrative expenses of
38 the authority, or for both purposes, in such amounts as
39 are voted in accordance with the election procedure

1 set forth in Section 5.06 of this Act.

2 (b) The maintenance tax and administration tax
3 shall not exceed the maximum rate voted, and the rate
4 shall remain in effect until or unless changed by
5 subsequent vote. The tax rate may not exceed the limit
6 specified in Section 5.08 of this Act.

7 Revisor's Note

8 Section 5.05(a), Chapter 427, Acts of the 44th
9 Legislature, 1st Called Session, 1935, refers to the
10 election procedure set forth in "Section 5.06 of this
11 Act." Section 5.06 is revised in pertinent part in
12 this chapter as Section 8511.0602, and the revised law
13 is drafted accordingly.

14 Revised Law

15 Sec. 8511.0602. ELECTION FOR AD VALOREM TAX OR BONDS
16 PAYABLE FROM AD VALOREM TAXES. (a) An ad valorem tax for a purpose
17 authorized by this chapter may not be imposed and bonds payable
18 wholly or partly from ad valorem taxes, other than refunding bonds,
19 may not be issued unless the taxes or bonds are approved by a
20 majority of the authority's voters voting at an election held in the
21 authority.

22 (b) The election must be ordered by resolution of the board.
23 The election resolution must include:

- 24 (1) the date of the election;
25 (2) the proposition to be submitted and voted on;
26 (3) the polling places; and
27 (4) any other matters the board considers advisable.

28 (c) There must be at least two polling places in each county
29 that is wholly inside the authority, one of which must be at the
30 county seat. There must be at least one polling place in that part
31 of each county that is partly inside the authority.

32 (d) Notice of the election must be given by publishing a
33 substantial copy of the resolution ordering the election in one or
34 more newspapers of general circulation in the authority. The
35 notice must be published at least twice in each newspaper. The
36 first publication in each newspaper must occur at least 14 days
37 before the date set for the election, and the interval between the

1 publications in each newspaper must be at least one week. (Acts
2 44th Leg., 1st C.S., Ch. 427, Sec. 5.06 (part).)

3 Source Law

4 Sec. 5.06. No ad valorem tax for any purpose
5 authorized in this Act may be levied or collected and
6 no bonds payable wholly or partially from ad valorem
7 taxes, except refunding bonds, may be issued unless an
8 election is held in the authority and the taxes or
9 bonds are duly and favorably voted by a majority of the
10 resident electors of the authority voting at the
11 election. Each election shall be called by resolution
12 of the board. The election resolution shall set forth
13 the date of the election, the proposition to be
14 submitted and voted on, the polling places, and any
15 other matters considered advisable by the board.
16 There shall be at least two polling places in each
17 county which lies wholly inside the authority, one of
18 which shall be at the county seat. There shall be at
19 least one polling place in that part of each county
20 which lies partly inside the authority. Notice of the
21 election shall be given by publishing a substantial
22 copy of the resolution calling the election in a
23 newspaper or newspapers of general circulation in the
24 authority not less than twice in each newspaper, with
25 the interval between the publications to be at least
26 one week, and with the first of each of the
27 publications to be at least 14 days prior to the date
28 set for the election. . . .

29 Revisor's Note

30 (1) Section 5.06, Chapter 427, Acts of the 44th
31 Legislature, 1st Called Session, 1935, provides that
32 the authority may not impose an ad valorem tax or issue
33 bonds payable wholly or partly from ad valorem taxes
34 unless an election is held in the authority and the
35 taxes or bonds are approved by a majority of the
36 "resident electors" of the authority voting at the
37 election. The revised law omits "resident" as
38 unnecessary in this context because Chapter 11,
39 Election Code, governs eligibility to vote in an
40 election in this state and allows only voters who are
41 residents of the territory covered by the election to
42 vote in an election. Throughout this chapter, the
43 revised law omits law that is superseded or duplicated
44 by the Election Code, applicable to the authority
45 under Section 1.002 of that code. The revised law also
46 substitutes "voters" for "electors" for the reason

1 stated in Revisor's Note (2) to Section 8511.0201.

2 (2) Section 5.06, Chapter 427, Acts of the 44th
3 Legislature, 1st Called Session, 1935, provides that
4 an election to authorize the imposition of an ad
5 valorem tax or the issuance of bonds payable wholly or
6 partly from ad valorem taxes "shall be called" by
7 resolution of the board and refers to the "resolution
8 calling the election." The revised law substitutes
9 "must be ordered" for "shall be called" and
10 "resolution ordering the election" for "resolution
11 calling the election" because "order" is the term used
12 in Chapter 3, Election Code.

13 (3) Section 5.06, Chapter 427, Acts of the 44th
14 Legislature, 1st Called Session, 1935, provides that,
15 to the extent not inconsistent with the provisions of
16 that section, the elections provided for by that
17 section shall be held in accordance with the Election
18 Code. The revised law omits that provision because an
19 exception to the application of the Election Code
20 would apply by its own terms. The omitted law reads:

21 Sec. 5.06. . . . To the extent not
22 inconsistent with the provisions hereof,
23 the elections herein provided for shall be
24 held in accordance with the provisions of
25 the Texas Election Code, as amended.

26 Revised Law

27 Sec. 8511.0603. ASSESSMENT AND COLLECTION OF TAXES. (a)
28 Concurrently with the imposition of county taxes by the
29 commissioners courts, the board shall impose a tax for the
30 authority on all taxable property in the authority that is subject
31 to taxation. The board shall immediately certify the tax rate to
32 the assessor-collector of each county located wholly or partly
33 inside the authority.

34 (b) The tax assessor-collector of each county located
35 wholly or partly inside the authority shall act as the tax
36 assessor-collector for the authority for property in the authority

1 located in that county.

2 (c) The fee of each county tax assessor-collector for
3 assessing and collecting the authority's taxes may not exceed one
4 percent of the taxes collected, to be paid over and disbursed in
5 each county in the same manner as other fees of office. (Acts 44th
6 Leg., 1st C.S., Ch. 427, Secs. 5.07(b) (part), (c) (part), (f).)

7 Source Law

8 (b) . . . the tax assessor-collector of each
9 such county shall act as the tax assessor-collector
10 for the authority for property in the authority
11 located in such county.

12 (c) . . . The fee of each county tax
13 assessor-collector for assessing and collecting taxes
14 shall be one percent of the taxes collected, to be paid
15 over and disbursed in each county as are other fees of
16 office.

17 (f) Concurrently with the levy of county taxes
18 by the commissioners courts, the board shall levy the
19 tax on all taxable property in the authority which is
20 subject to such taxation and shall immediately certify
21 the tax rate to the tax assessor-collectors of the
22 counties which lie wholly or partly inside the
23 authority.

24 Revisor's Note

25 (1) Section 5.07(a), Chapter 427, Acts of the
26 44th Legislature, 1st Called Session, 1935, provides
27 that the rendition and assessment of property for
28 taxation, the equalization of values, and the
29 collection of taxes for the authority's benefit shall
30 be in accordance with the law applicable to counties,
31 insofar as that law can be made applicable and except
32 as otherwise specifically provided. The revised law
33 omits that provision because it was repealed by
34 Section 6(b), Chapter 841, Acts of the 66th
35 Legislature, Regular Session, 1979, which repealed all
36 "general, local, and special laws" that conflicted
37 with that act. The 1979 act enacted the Property Tax
38 Code (Title 1, Tax Code), a comprehensive, substantive
39 codification of the laws governing the administration
40 of ad valorem taxes. Title 1, Tax Code, provides the
41 exclusive procedures for the appraisal of property for

1 and the assessment and collection of ad valorem taxes
2 by a taxing unit, including the authority. Throughout
3 this chapter, the revised law omits law that is
4 superseded or duplicated by Title 1, Tax Code,
5 applicable to the authority under Section 1.02 of that
6 code. The omitted law reads:

7 Sec. 5.07. (a) The rendition and
8 assessment of property for taxation, the
9 equalization of values, and the collection
10 of taxes for the benefit of the authority
11 shall be in accordance with the law
12 applicable to counties, insofar as such law
13 can be made applicable, and except as
14 hereinafter specifically provided.

15 (2) Section 5.07(b), Chapter 427, Acts of the
16 44th Legislature, 1st Called Session, 1935, authorizes
17 the board to act as the authority's board of
18 equalization in all counties that lie wholly or partly
19 in the authority or to delegate the equalization
20 functions for one or more of those counties to the
21 county board of equalization for each of those
22 counties, grants the board of equalization the powers,
23 functions, and duties of a commissioners court in
24 equalizing property values, and, if the board
25 delegates the equalization function to one or more
26 county boards of equalization, authorizes the board to
27 review and adjust the assessments of each county board
28 of equalization as necessary to equalize values
29 throughout the authority. The revised law omits that
30 provision because boards of equalization were
31 abolished and their functions and duties transferred
32 to appraisal review boards by the 1979 enactment of the
33 Property Tax Code, Title 1, Tax Code (Section 1,
34 Chapter 841, Acts of the 66th Legislature, Regular
35 Session). The omitted law reads:

36 (b) The board may act as the board of
37 equalization for the authority in all
38 counties that lie wholly or partly in the
39 authority or, to the extent authorized or

1 not prohibited by the Texas Constitution,
2 may delegate the equalization functions for
3 one or more of those counties to the county
4 board of equalization for each such county.
5 In either case, the board of equalization
6 shall have the powers, functions, and
7 duties of the commissioners courts in
8 counties in equalizing the property values
9 in accordance with the law applicable to
10 counties, insofar as such laws can be made
11 applicable. In the event the board
12 delegates the equalization functions to one
13 or more county boards of equalization as
14 authorized herein, the board shall review
15 the assessments of each such county board of
16 equalization and shall adjust the
17 assessments as necessary to equalize values
18 throughout the authority. . . .

19 (3) Section 5.07(b), Chapter 427, Acts of the
20 44th Legislature, 1st Called Session, 1935, provides
21 that renditions of property for taxation shall be made
22 to the county tax assessor-collector of the county in
23 which property in the authority is located. The
24 revised law omits that provision because it was
25 repealed by Section 6(b), Chapter 841, Acts of the 66th
26 Legislature, Regular Session, 1979. See Revisor's
27 Note (1). Chapter 22, Tax Code, governs the rendition
28 of property for taxation. The omitted law reads:

29 (b) . . . Regardless of the method
30 used by the authority to accomplish the
31 equalization functions, renditions shall be
32 made to the county tax assessor-collector
33 of the county in which property in the
34 authority is located, and

35 (4) Section 5.07(c), Chapter 427, Acts of the
36 44th Legislature, 1st Called Session, 1935, requires
37 the tax assessor-collector in each county to cause to
38 be placed on the county tax rolls the additional column
39 or columns needed to show the amount of taxes imposed
40 on property by the authority. The revised law omits
41 that provision because it was repealed by Section
42 6(b), Chapter 841, Acts of the 66th Legislature,
43 Regular Session, 1979. See Revisor's Note (1).
44 Section 26.09(e), Tax Code, requires the assessor for
45 a taxing unit to enter on the appraisal roll for the

1 unit the amount of tax imposed on each property
2 included on the roll and submit it to the governing
3 body of the unit for approval and provides that the
4 appraisal roll with amounts of tax entered as approved
5 by the governing body constitutes the unit's tax roll.
6 The omitted law reads:

7 (c) It shall be the duty of the tax
8 assessor-collector in each county to cause
9 to be placed on the county tax rolls the
10 additional column or columns needed to show
11 the taxes levied by the authority and the
12 amount thereof, based on the value of such
13 property as approved and equalized finally
14 by the board. . . .

15 (5) Section 5.07(c), Chapter 427, Acts of the
16 44th Legislature, 1st Called Session, 1935, provides
17 that the fee of each county tax assessor-collector for
18 assessing and collecting the authority's taxes "shall
19 be one percent of the taxes collected." Section
20 6.27(b), Tax Code, provides in part that, except as
21 provided by Section 6.27(d) of that code, the county
22 assessor-collector is entitled to a reasonable fee,
23 which may not exceed the actual costs incurred, for
24 assessing and collecting taxes for a taxing unit
25 pursuant to Section 6.23(a)(1). Section 6.23(a)(1),
26 Tax Code, provides that the county assessor-collector
27 shall assess and collect taxes on property for another
28 taxing unit if the law creating or authorizing
29 creation of the unit requires it to use the county
30 assessor-collector for the taxes the unit imposes in
31 the county. Because Section 5.07(b), Chapter 427,
32 requires the tax assessor-collector of each county to
33 act as the tax assessor-collector for the authority
34 for property in the authority located in that county,
35 Section 6.23(a)(1), Tax Code, and therefore Section
36 6.27(b) of that code, applies to the authority.
37 However, Section 6.27(d), Tax Code, provides in part

1 that if a law enacted under Section 59, Article XVI,
2 Texas Constitution, creating a river authority
3 authorizes the river authority to impose a tax,
4 specifies the maximum tax rate, and specifies the
5 maximum fee that the authority may pay for the
6 assessment and collection of the authority's taxes,
7 and if the county assessor-collector assesses and
8 collects the taxes the river authority imposes
9 pursuant to Section 6.23(a)(1) of that code, the
10 county assessor-collector may not charge the river
11 authority a fee for assessing and collecting the taxes
12 that exceeds the fee specified in the law creating the
13 river authority. Chapter 427 is a law described by
14 Section 6.27(d), Tax Code. Accordingly, the revised
15 law provides that the fee of each county tax
16 assessor-collector for assessing and collecting the
17 authority's taxes "may not exceed" one percent of the
18 taxes collected.

19 (6) Section 5.07(d), Chapter 427, Acts of the
20 44th Legislature, 1st Called Session, 1935, provides
21 that the laws for the enforcement of state and county
22 taxes are available to the authority and authorizes
23 the authority to cause the officers of each county to
24 enforce and collect the taxes due to the authority in
25 that county, as provided in the law for the enforcement
26 of state and county taxes. The revised law omits that
27 provision as unnecessary. The law governing the
28 enforcement and collection of all ad valorem taxes is
29 Title 1, Tax Code. Section 1.02, Tax Code, requires
30 all taxing units of government to administer the
31 enforcement and collection of taxes in conformity with
32 that title. The duty of the county tax
33 assessor-collector to enforce and collect the
34 authority's taxes is established by Section 5.07(b),

1 Chapter 427, revised as Section 8511.0603(b), and it
2 is not necessary to restate that duty. The omitted law
3 reads:

4 (d) All the laws for the enforcement
5 of state and county taxes shall be available
6 to the authority. The authority shall have
7 the right to cause the officers of each
8 county to enforce and collect the taxes due
9 to the authority in that county, as provided
10 in the law for the enforcement of state and
11 county taxes.

12 (7) Section 5.07(e), Chapter 427, Acts of the
13 44th Legislature, 1st Called Session, 1935, provides
14 in part that taxes imposed for the authority's benefit
15 are payable and become delinquent at the same time, in
16 the same manner, and subject to the same discount for
17 advance payment as taxes imposed by and for the benefit
18 of the county in which the property is taxable. The
19 revised law omits that provision because it was
20 repealed by Section 6(b), Chapter 841, Acts of the 66th
21 Legislature, Regular Session, 1979. See Revisor's
22 Note (1). Section 31.02, Tax Code, specifies when
23 taxes are payable and become delinquent. Section
24 31.05, Tax Code, governs discounts for the advance
25 payment of taxes. Section 31.06, Tax Code, governs the
26 medium of payment of taxes. The omitted law reads:

27 (e) Taxes assessed and levied for the
28 benefit of the authority shall be payable
29 and shall become delinquent at the same
30 time, in the same manner, and subject to the
31 same discount for advance payment as taxes
32 levied by and for the benefit of the county
33 in which the property is taxable. . . .

34 (8) Section 5.07(e), Chapter 427, Acts of the
35 44th Legislature, 1st Called Session, 1935, provides
36 that the fee for collecting delinquent taxes through
37 prosecution of suit is 15 percent of the taxes
38 collected by the suit. The revised law omits that
39 provision because it was repealed by Section 6(b),
40 Chapter 841, Acts of the 66th Legislature, Regular

1 Session, 1979. See Revisor's Note (1). Section 33.48,
2 Tax Code, governs the recovery of costs and expenses,
3 including attorney's fees, in a suit to collect a
4 delinquent tax. The omitted law reads:

5 (e) . . . The fee for collecting
6 delinquent taxes through prosecution of
7 suit shall be 15 percent of the taxes
8 collected by the suit, to be paid over and
9 disbursed in each county as are other fees
10 of office.

11 Revised Law

12 Sec. 8511.0604. MAXIMUM TAX RATE. Except as provided by
13 Section 8511.0605, the maximum tax rate that may be imposed for any
14 year for all purposes is 15 cents on each \$100 of assessed valuation
15 of taxable property. (Acts 44th Leg., 1st C.S., Ch. 427, Sec. 5.08;
16 New.)

17 Source Law

18 Sec. 5.08. The maximum rate of tax which may be
19 levied for any year for all purposes is 15 cents on
20 each \$100 of taxable property, based on its assessed
21 valuation.

22 Revisor's Note

23 Section 5.09, Chapter 427, Acts of the 44th
24 Legislature, 1st Called Session, 1935, provides an
25 exception to the maximum tax rate provided by Section
26 5.08 of that act. Section 5.09 is revised in pertinent
27 part as Section 8511.0605 of this chapter. For the
28 reader's convenience, the revised law adds a reference
29 to the exception provided by that section.

30 Revised Law

31 Sec. 8511.0605. POWERS RELATING TO IMPROVEMENTS PECULIAR TO
32 DEFINED AREA. (a) The authority may exercise the powers specified
33 by Sections 51.510 through 51.530, Water Code, relating to
34 improvements peculiar to defined areas inside the authority.

35 (b) The tax rate limit specified by Section 8511.0604 does
36 not apply with respect to an improvement constructed in exercise of
37 a power authorized by this section. (Acts 44th Leg., 1st C.S., Ch.
38 427, Sec. 5.09 (part).)

1 Source Law

2 Sec. 5.09. The authority has and may exercise,
3 but is not required to exercise, the powers specified
4 in Sections 51.510 through 51.530, Water Code,
5 relating to improvements peculiar to defined areas
6 inside the authority. The tax rate limit specified in
7 Section 5.08 of this Act does not apply with respect to
8 improvements constructed in the exercise of the powers
9 authorized in this section. . . .

10 Revisor's Note

11 Section 5.09, Chapter 427, Acts of the 44th
12 Legislature, 1st Called Session, 1935, provides that
13 the taxing powers in that section are cumulative of
14 other taxing powers in that act. The revised law omits
15 that provision for the reason stated in Revisor's Note
16 (3) at the end of Subchapter C. The omitted law reads:

17 Sec. 5.09. . . . The taxing powers
18 in this section are cumulative of the other
19 taxing powers in this Act.

20 SUBCHAPTER G. BONDS, BORROWED MONEY, AND GRANTS

21 Revised Law

22 Sec. 8511.0701. BORROWING MONEY; GRANTS. (a) The
23 authority may:

24 (1) borrow money or accept a grant or donation for its
25 corporate purposes from any person, including a private source, the
26 United States, this state, or a local government; and

27 (2) enter into an agreement in connection with a loan,
28 grant, or donation accepted under Subdivision (1).

29 (b) The source of any money accepted by the authority is
30 public information, both as to amount and any restrictions placed
31 by the donor on its expenditure. (Acts 44th Leg., 1st C.S., Ch.
32 427, Sec. 4.03.)

33 Source Law

34 Sec. 4.03. (a) The authority may borrow money
35 and accept grants and donations for its corporate
36 purposes from private sources, the United States of
37 America, the state, local governments, or any other
38 person. The authority may enter into any agreement in
39 connection with the loan, grant, or donation that is
40 not in conflict with the constitution and laws of this
41 state.

42 (b) The sources of any funds accepted by the
43 authority shall be public information, both as to

1 amount and any restrictions placed by the donor on
2 their expenditure.

3 Revisor's Note

4 Section 4.03(a), Chapter 427, Acts of the 44th
5 Legislature, 1st Called Session, 1935, provides that
6 the authority may enter into an agreement "that is not
7 in conflict with the constitution and laws of this
8 state." The revised law omits the quoted language
9 because the absence of the language does not imply that
10 the authority is authorized to take actions
11 inconsistent with the constitution and laws of this
12 state.

13 Revised Law

14 Sec. 8511.0702. POWER TO APPLY FOR MONEY FOR ENGINEERING
15 SURVEYS, INFORMATION COMPILATION AND COLLECTION, AND OTHER
16 PURPOSES. (a) The authority may apply to any person, including
17 this state and the United States, for money necessary to:

18 (1) secure engineering surveys and the compilation and
19 collection of information relating to regional and general
20 conditions entering into and influencing the character and extent
21 of the improvements necessary to accomplish the storage, control,
22 transportation, treatment, conservation, and equitable
23 distribution to the greatest public advantage of the floodwater,
24 normal flow water, and storm water that is stored and controlled; or

25 (2) accomplish or carry out any purpose of this
26 chapter.

27 (b) The authority:

28 (1) shall request an amount it considers sufficient;

29 (2) may make the necessary agreements with the party
30 providing the money; and

31 (3) may appropriate the amount of the estimated
32 equitable contribution of the costs of developing essential
33 engineering information. (Acts 44th Leg., 1st C.S., Ch. 427, Sec.
34 4.04.)

1 Source Law

2 Sec. 4.04. The authority may apply to the state,
3 the United States, or any other person for funds
4 necessary to secure engineering surveys and the
5 compilation and collection of data relating to
6 regional and general conditions entering into and
7 influencing the character and the extent of the
8 improvements necessary to accomplish the storage,
9 control, transportation, treatment, conservation, and
10 equitable distribution to the greatest public
11 advantage of the floodwater, normal flow and storm
12 water which are stored and controlled, and to
13 accomplish or carry out any of the other purposes of
14 this Act. The authority shall request an amount it
15 considers sufficient, and may make the necessary
16 agreements with the party providing the funds and may
17 appropriate the amount of the estimated equitable
18 contribution of the costs of developing essential
19 engineering data.

20 Revised Law

21 Sec. 8511.0703. POWER TO ISSUE BONDS. (a) For the purpose
22 of carrying out any power conferred by this chapter, including
23 preparation of the master plan and payment of engineering and
24 related expenses, the authority may issue bonds in three general
25 classes:

26 (1) bonds secured by ad valorem taxes;

27 (2) bonds secured by a pledge of all or part of the
28 revenue accruing to the authority from any source other than ad
29 valorem taxes, including the revenue received from:

30 (A) the sale of water or other products;

31 (B) the rendition of services;

32 (C) tolls; and

33 (D) charges; and

34 (3) bonds secured by a combination pledge of:

35 (A) taxes; and

36 (B) all or part of the revenue described by
37 Subdivision (2).

38 (b) The bonds must be authorized by a board resolution.
39 (Acts 44th Leg., 1st C.S., Ch. 427, Secs. 5.01(a), (b) (part).)

40 Source Law

41 Sec. 5.01. (a) For the purpose of carrying out
42 any power or authority conferred by this Act,
43 including preparing the master plan and payment of
44 engineering and related expenses, the authority may

1 issue its bonds in three general classes:

- 2 (1) bonds secured by ad valorem taxes;
- 3 (2) bonds secured by a pledge of all or
- 4 part of the revenues accruing to the authority,
- 5 including without limitation those received from sale
- 6 of water or other products, rendition of service,
- 7 tolls, charges, and from all other sources other than
- 8 ad valorem taxes;
- 9 (3) bonds secured by a combination pledge
- 10 of all or part of the revenues described in Subdivision
- 11 (2) of this subsection, and taxes.
- 12 (b) The bonds shall be authorized by resolution
- 13 of the board and

14 Revisor's Note

15 (1) Section 5.01(a), Chapter 427, Acts of the
16 44th Legislature, 1st Called Session, 1935, refers to
17 carrying out any "power" or "authority" conferred by
18 that act. The revised law omits the reference to
19 "authority" because, in context, it is included in the
20 meaning of "power."

21 (2) Section 5.01(a)(2), Chapter 427, Acts of the
22 44th Legislature, 1st Called Session, 1935, authorizes
23 the authority to issue bonds secured by a pledge of all
24 or part of the revenue accruing to the authority from
25 all sources other than ad valorem taxes, including
26 "without limitation" revenue received from certain
27 sources. The revised law omits the quoted language for
28 the reason stated in the revisor's note to Section
29 8511.0212.

30 (3) Section 5.01(c), Chapter 427, Acts of the
31 44th Legislature, 1st Called Session, 1935, provides
32 that bonds may be issued in "more than one series, and
33 from time to time, as required for carrying out the
34 purposes of this Act." The revised law omits "more
35 than one series" because it duplicates a provision of
36 Section 1201.022, Government Code. Throughout this
37 chapter, the revised law omits law that is superseded
38 by Chapter 1201, Government Code, or that duplicates
39 law contained in that chapter. Chapter 1201,
40 Government Code, applies to authority bonds under

1 Sections 1201.002 and 1201.003, Government Code. The
2 revised law omits "as required for carrying out the
3 purposes of this Act" because Section 5.01(a), Chapter
4 427, Acts of the 44th Legislature, 1st Called Session,
5 1935, revised in this section, authorizes the
6 authority to issue bonds for the purposes of the act.
7 The omitted law reads:

8 (c) Bonds may be issued in more than
9 one series, and from time to time, as
10 required for carrying out the purposes of
11 this Act. . . .

12 Revised Law

13 Sec. 8511.0704. FORM OF BONDS. Authority bonds must be:

- 14 (1) in the form the board prescribes;
15 (2) issued in the authority's name;
16 (3) signed by the president or a vice president; and
17 (4) attested by the secretary. (Acts 44th Leg., 1st
18 C.S., Ch. 427, Sec. 5.01(b) (part).)

19 Source Law

20 (b) The bonds . . . shall be issued in the name
21 of the authority, shall be signed by the president or
22 any vice-president, shall be attested by the
23 secretary, and The bonds shall be in the form
24 prescribed by the board,

25 Revisor's Note

26 Section 5.01(b), Chapter 427, Acts of the 44th
27 Legislature, 1st Called Session, 1935, provides that
28 authority bonds must bear the authority seal and
29 authorizes "printed or lithographed" signatures and
30 seals. The revised law omits those provisions as
31 unnecessary. The requirement that the bonds bear the
32 authority seal was impliedly repealed by Section 3,
33 Bond Procedures Act of 1981 (Article 717k-6, Vernon's
34 Texas Civil Statutes), revised in pertinent part in
35 1999 as Section 1201.026(a), Government Code, which
36 provides that bonds may be signed with or without a
37 seal. The authorization for the use of printed or

1 lithographed signatures duplicates Section
2 1201.026(a), Government Code, which also provides that
3 bonds and interest coupons may be executed with manual
4 or facsimile signatures. The omitted law reads:

5 (b) [The bonds] . . . shall bear the
6 seal of the authority. If authorized by the
7 board, the signatures of the president, or
8 any vice-president, and the secretary or of
9 both may be printed or lithographed on the
10 bonds, and the seal of the authority may be
11 impressed on the bonds or may be printed or
12 lithographed on the bonds. . . .

13 Revised Law

14 Sec. 8511.0705. MATURITY. Authority bonds must mature not
15 later than 50 years after the date of their issuance. (Acts 44th
16 Leg., 1st C.S., Ch. 427, Sec. 5.01(b) (part).)

17 Source Law

18 (b) . . . The bonds . . . shall mature serially
19 or otherwise in not to exceed 50 years from their date,
20

21 Revisor's Note

22 Section 5.01(b), Chapter 427, Acts of the 44th
23 Legislature, 1st Called Session, 1935, provides that
24 authority bonds shall mature "serially or otherwise."
25 The revised law omits the quoted language because it
26 duplicates Section 1201.022(a)(1), Government Code.

27 Revised Law

28 Sec. 8511.0706. ELECTION FOR BONDS PAYABLE FROM AD VALOREM
29 TAXES. (a) Authority bonds, other than refunding bonds, payable
30 wholly or partly from ad valorem taxes may not be issued unless
31 authorized by an election at which a majority of the votes cast
32 favor the bond issuance. The election must be held in accordance
33 with Section 8511.0602.

34 (b) The authority may issue bonds not payable wholly or
35 partly from ad valorem taxes without an election. (Acts 44th Leg.,
36 1st C.S., Ch. 427, Sec. 5.04.)

37 Source Law

38 Sec. 5.04. (a) No bonds payable wholly or
39 partially from ad valorem taxes, except refunding

1 bonds, shall be issued unless authorized by an
2 election at which the resident electors cast a
3 majority of the votes in favor of the issuance of the
4 bonds. The election shall be held in accordance with
5 the provisions set forth in Section 5.06 of this Act
6 governing ad valorem tax elections.

7 (b) Bonds not payable wholly or partially from
8 ad valorem taxes may be issued without an election.

9 Revisor's Note

10 (1) Section 5.04, Chapter 427, Acts of the 44th
11 Legislature, 1st Called Session, 1935, refers to
12 "resident electors" casting a majority of the votes in
13 favor of the issuance of bonds. The revised law omits
14 the quoted language because Chapter 11, Election Code,
15 governs eligibility to vote in an election in this
16 state and allows only qualified voters who are
17 residents of the territory covered by the election to
18 vote in an election.

19 (2) Section 5.04, Chapter 427, Acts of the 44th
20 Legislature, 1st Called Session, 1935, refers to
21 "Section 5.06 of this Act." Section 5.06 is revised in
22 pertinent part as Section 8511.0602 of this chapter,
23 and the revised law is drafted accordingly.

24 Revised Law

25 Sec. 8511.0707. TRUST INDENTURE. Authority bonds may be
26 further secured by a trust indenture with a corporate trustee.
27 (Acts 44th Leg., 1st C.S., Ch. 427, Sec. 5.01(b) (part).)

28 Source Law

29 (b) . . . The bonds may be further secured by an
30 indenture of trust with a corporate trustee.

31 Revised Law

32 Sec. 8511.0708. ADDITIONAL BONDS. A pledge of revenue may
33 reserve the right, under conditions specified by the pledge, to
34 issue additional bonds that will be on a parity with or subordinate
35 to the bonds then being issued. (Acts 44th Leg., 1st C.S., Ch. 427,
36 Sec. 5.01(c) (part).)

37 Source Law

38 (c) . . . Any pledge of revenue may reserve the
39 right, under conditions therein specified, to issue

1 additional bonds which will be on a parity with or
2 subordinate to the bonds then being issued.

3 Revised Law

4 Sec. 8511.0709. ADDITIONAL PROVISIONS IN RESOLUTION
5 AUTHORIZING BONDS OR TRUST INDENTURE. (a) The resolution
6 authorizing the bonds or the trust indenture further securing the
7 bonds may specify additional provisions that constitute a contract
8 between the authority and its bondholders.

9 (b) The board has full discretion in providing for the
10 additional provisions, including the authority to provide for a
11 corporate trustee or receiver to take possession of authority
12 facilities if the authority defaults in fulfilling the covenants
13 made in the resolution or trust indenture. (Acts 44th Leg., 1st
14 C.S., Ch. 427, Sec. 5.01(d).)

15 Source Law

16 (d) The resolution authorizing the bonds or the
17 trust indenture further securing the bonds may specify
18 additional provisions which shall constitute a
19 contract between the authority and its bondholders.
20 The board shall have full discretion in providing for
21 the additional provisions, including the authority to
22 provide for a corporate trustee or receiver to take
23 possession of facilities of the authority in the event
24 of default on the part of the authority in fulfilling
25 the covenants therein made.

26 Revised Law

27 Sec. 8511.0710. REFUNDING BONDS. (a) The authority may
28 issue refunding bonds to refund outstanding authority bonds and
29 interest on the bonds.

30 (b) Refunding bonds may:

31 (1) be issued to refund bonds of one or more series;

32 (2) combine the pledges for the outstanding bonds for
33 the security of the refunding bonds; or

34 (3) be secured by a pledge of other or additional
35 revenue.

36 (c) The provisions of this subchapter regarding the
37 issuance of other bonds, their security, and the remedies of the
38 holders apply to refunding bonds.

39 (d) The comptroller shall register the refunding bonds on

1 surrender and cancellation of the bonds to be refunded.

2 (e) Instead of issuing bonds to be registered on the
3 surrender and cancellation of the bonds to be refunded, the
4 authority, in the resolution authorizing the issuance of the
5 refunding bonds, may provide for the sale of the refunding bonds and
6 the deposit of the proceeds in a bank at which the bonds to be
7 refunded are payable. In that case, the refunding bonds may be
8 issued in an amount sufficient to pay the principal of and interest
9 on the bonds to be refunded to their option date or maturity date,
10 and the comptroller shall register the refunding bonds without the
11 concurrent surrender and cancellation of the bonds to be refunded.
12 (Acts 44th Leg., 1st C.S., Ch. 427, Sec. 5.02.)

13 Source Law

14 Sec. 5.02. The authority may issue refunding
15 bonds for the purpose of refunding any outstanding
16 bonds authorized by this Act and interest on the bonds.
17 The refunding bonds may be issued to refund one or more
18 series of outstanding bonds and combine the pledges
19 for the outstanding bonds for the security of the
20 refunding bonds, and may be secured by other or
21 additional revenue. The provisions of this Act with
22 reference to the issuance by the authority of other
23 bonds, their security, and their approval by the
24 attorney general, and the remedies of the holders
25 shall be applicable to refunding bonds. Refunding
26 bonds shall be registered by the Comptroller of Public
27 Accounts of the State of Texas on surrender and
28 cancellation of the bonds to be refunded, but in lieu
29 thereof, the resolution authorizing their issuance may
30 provide that they shall be sold and the proceeds
31 deposited in the bank where the original bonds are
32 payable, in which case the refunding bonds may be
33 issued in an amount sufficient to pay the principal of
34 and the interest on the original bonds to their option
35 date or maturity date, and the comptroller shall
36 register them without concurrent surrender and
37 cancellation of the original bonds.

38 Revisor's Note

39 Section 5.02, Chapter 427, Acts of the 44th
40 Legislature, 1st Called Session, 1935, refers to the
41 "approval [of bonds] by the attorney general" and
42 applies that to refunding bonds. The revised law omits
43 the quoted language because it is superseded by
44 Section 1202.003, Government Code, enacted in 1987 as
45 Section 3.002(a), Chapter 53, Acts of the 70th

1 Legislature, 2nd Called Session (Article 717k-8,
2 Vernon's Texas Civil Statutes), which provides for
3 approval of public securities by the attorney general.
4 That section applies to bonds issued by the authority
5 under Section 1202.001, Government Code.

6 Revisor's Note
7 (End of Subchapter)

8 (1) Section 5.01(b), Chapter 427, Acts of the
9 44th Legislature, 1st Called Session, 1935, provides
10 that authority bonds may be in any denomination. The
11 revised law omits that provision because it duplicates
12 Section 1201.021(1), Government Code. The omitted law
13 reads:

14 (b) . . . [The bonds] . . . shall be
15 in any denomination or denominations,
16

17 (2) Section 5.01(b), Chapter 427, Acts of the
18 44th Legislature, 1st Called Session, 1935, provides
19 that authority bonds shall "bear any interest." The
20 revised law omits that provision because it duplicates
21 Section 1201.021(2), Government Code. The omitted law
22 reads:

23 (b) . . . [The bonds] . . . shall
24 bear any interest, and

25 (3) Section 5.01(b), Chapter 427, Acts of the
26 44th Legislature, 1st Called Session, 1935, provides
27 that authority bonds may be sold at a price and under
28 terms determined by the board to be the most
29 advantageous reasonably obtainable. The revised law
30 omits that provision because it duplicates or is
31 superseded by provisions of general law. Section
32 1204.006(b), Government Code, enacted as Section 2,
33 Chapter 3, Acts of the 61st Legislature, Regular
34 Session, 1969 (Article 717k-2, Vernon's Texas Civil
35 Statutes), provides that an issuer may sell public
36 securities at any price. Section 1204.006(b) applies

1 to authority bonds under Sections 1204.001 and
2 1204.002, Government Code. Section 1201.022,
3 Government Code, as amended in 2001, provides that an
4 issuer may sell public securities "under the terms
5 determined by the governing body to be in the issuer's
6 best interests." The omitted law reads:

7 (b) . . . [The bonds] . . . may be
8 sold at a price and under terms determined
9 by the board to be the most advantageous
10 reasonably obtainable, and

11 (4) Section 5.01(b), Chapter 427, Acts of the
12 44th Legislature, 1st Called Session, 1935, provides
13 that the board may make authority bonds callable
14 before maturity at the times and prices prescribed in
15 the bonds. The revised law omits that provision
16 because it duplicates, in substance, Sections 1201.021
17 and 1201.022, Government Code, which provide that a
18 public security may be issued as redeemable before
19 maturity and be payable in specified amounts and at
20 specified times. The omitted law reads:

21 (b) . . . [The bonds] . . . within
22 the discretion of the board, may be made
23 callable prior to maturity at the times and
24 prices prescribed in the bonds, and

25 (5) Section 5.01(b), Chapter 427, Acts of the
26 44th Legislature, 1st Called Session, 1935, provides
27 that authority bonds may be made registrable as to
28 principal or as to principal and interest. The revised
29 law omits that provision because it duplicates Section
30 1201.024(a)(3), Government Code. The omitted law
31 reads:

32 (b) . . . [The bonds] . . . may be
33 made registrable as to principal or as to
34 both principal and interest. . . .

35 (6) Section 5.10, Chapter 427, Acts of the 44th
36 Legislature, 1st Called Session, 1935, lists the
37 entities for which authority bonds are legal
38 investments and provides that authority bonds may

1 secure deposits of public funds of the state or
2 political subdivisions. The revised law omits the
3 provision relating to the eligibility of authority
4 bonds to be considered as investments for various
5 entities because it duplicates, in substance, Section
6 49.186(a), Water Code. The revised law omits the
7 provision relating to the use of authority bonds as
8 security for deposits of state funds as impliedly
9 repealed by Section 404.0221, Government Code (enacted
10 in 1995), which lists eligible collateral for deposits
11 of state funds by the comptroller, and by Section
12 404.031, Government Code (enacted in 1985 as Section
13 3.001, Article 4393-1, Vernon's Texas Civil Statutes,
14 and last amended in 2009), which provides for the
15 valuation of that collateral. As to securing deposits
16 of other funds, the provision is impliedly repealed by
17 Chapter 2257, Government Code (enacted in 1989 as
18 Article 2529d, Vernon's Texas Civil Statutes), which
19 governs eligible collateral for deposits of funds of
20 other public agencies, including political
21 subdivisions, and permits those deposits to be secured
22 by obligations issued by conservation and reclamation
23 districts. The omitted law reads:

24 Sec. 5.10. All bonds and refunding
25 bonds of the authority shall be and are
26 hereby declared to be legal, eligible, and
27 authorized investments for banks; savings
28 and loan associations; insurance companies;
29 fiduciaries; trustees; the sinking funds of
30 cities, towns, villages, counties, school
31 districts, or any other political
32 corporations or subdivisions of the State
33 of Texas; and for all public funds of the
34 State of Texas or its agencies, including
35 the state permanent school fund. The bonds
36 and refunding bonds shall be eligible to
37 secure the deposit of any and all public
38 funds of the State of Texas, cities, towns,
39 villages, counties, school districts, or
40 other political corporations or
41 subdivisions of the State of Texas; and such
42 bonds shall be lawful and sufficient
43 security for said deposits to the extent of
44 their face value, when accompanied by all

1 unmatured coupons appurtenant thereto.

2 Revisor's Note
3 (End of Chapter)

4 (1) Section 4, Chapter 699, Acts of the 64th
5 Legislature, Regular Session, 1975, validates certain
6 authority actions. That provision is omitted from the
7 revised law because it served its purposes on the day
8 it took effect and is executed law. Section
9 311.031(a)(2), Government Code (Code Construction
10 Act), provides that the repeal of a statute does not
11 affect any validation previously made under the
12 statute. Therefore, the omission of the executed
13 validation provision does not affect the validation.
14 The omitted law reads:

15 Sec. 4. All resolutions, orders,
16 rules, bylaws, requests, applications to
17 state agencies, depository bank
18 designations, proceedings, and actions
19 heretofore adopted, made, taken, performed,
20 or established by the Nueces River
21 Authority pursuant to Chapter 427, Acts of
22 the 44th Legislature, 1st Called Session,
23 1935, as amended (Article 8280-115,
24 Vernon's Texas Civil Statutes), are
25 validated and remain in effect unless and
26 until amended or superseded by order of the
27 board of the authority.

28 (2) Section 6, Chapter 699, Acts of the 64th
29 Legislature, Regular Session, 1975, provides that the
30 act is severable. The revised law omits that provision
31 because the same result is produced by application of
32 Section 311.032, Government Code (Code Construction
33 Act), which provides that a provision of a statute is
34 severable from each other provision of the statute
35 that can be given effect. The omitted law reads:

36 Sec. 6. If any provision of this Act
37 or the application thereof to any person or
38 circumstance is held invalid, such
39 invalidity shall not affect other
40 provisions or applications of the Act which
41 can be given effect without the invalid
42 provision or application, and to this end
43 the provisions of this Act are declared to
44 be severable.

45 (3) Section 7, Chapter 699, Acts of the 64th

1 Legislature, Regular Session, 1975, contains
2 legislative findings relating to the performance of
3 the requirements of Section 59(d), Article XVI, Texas
4 Constitution, concerning the introduction of that act.
5 The revised law omits that provision as executed. The
6 omitted law reads:

7 Sec. 7. The legislature finds that
8 the requirements of Article XVI, Section
9 59, Subsection (d) of the Texas
10 Constitution, concerning the introduction
11 of this Act have been met.

12 (4) Section 18, Chapter 21, Acts of the 86th
13 Legislature, Regular Session, 2019, recites
14 legislative findings regarding procedural
15 requirements for legislation affecting the authority
16 under the constitution and other laws and rules,
17 including proper legal notice and the filing of
18 recommendations. The revised law omits those
19 provisions as executed. The omitted law reads:

20 Sec. 18. (a) The legal notice of the
21 intention to introduce this Act, setting
22 forth the general substance of this Act, has
23 been published as provided by law, and the
24 notice and a copy of this Act have been
25 furnished to all persons, agencies,
26 officials, or entities to which they are
27 required to be furnished under Section 59,
28 Article XVI, Texas Constitution, and
29 Chapter 313, Government Code.

30 (b) The governor, one of the required
31 recipients, has submitted the notice and
32 Act to the Texas Commission on
33 Environmental Quality.

34 (c) The Texas Commission on
35 Environmental Quality has filed its
36 recommendations relating to this Act with
37 the governor, the lieutenant governor, and
38 the speaker of the house of representatives
39 within the required time.

40 (d) All requirements of the
41 constitution and laws of this state and the
42 rules and procedures of the legislature
43 with respect to the notice, introduction,
44 and passage of this Act are fulfilled and
45 accomplished.