

PRELIMINARY DRAFT

TEXAS LEGISLATIVE COUNCIL
Special District Local
Laws Code
Chapter 9088
7/6/20

1 CHAPTER 9088. CALHOUN COUNTY WATER CONTROL AND IMPROVEMENT

2 DISTRICT NO. 1

3 SUBCHAPTER A. GENERAL PROVISIONS

4 Sec. 9088.0101. DEFINITIONS 1

5 Sec. 9088.0102. NATURE AND PURPOSE OF DISTRICT 2

6 Sec. 9088.0103. FINDINGS OF PURPOSE AND BENEFIT 4

7 Sec. 9088.0104. DISTRICT TERRITORY 4

8 SUBCHAPTER B. POWERS AND DUTIES

9 Sec. 9088.0201. WATER CONTROL AND IMPROVEMENT DISTRICT

10 POWERS 5

11 SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

12 Sec. 9088.0301. TAX METHOD 7

13 CHAPTER 9088. CALHOUN COUNTY WATER CONTROL AND IMPROVEMENT

14 DISTRICT NO. 1

15 SUBCHAPTER A. GENERAL PROVISIONS

16 Revised Law

17 Sec. 9088.0101. DEFINITIONS. In this chapter:

18 (1) "Board" means the district's board of directors.

19 (2) "District" means the Calhoun County Water Control

20 and Improvement District No. 1 in Calhoun County. (Acts 56th Leg.,

21 R.S., Ch. 472, Sec. 1 (part); Acts 71st Leg., R.S., Ch. 518, Sec. 1;

22 New.)

23 Source Law

24 [Acts 56th Leg., R.S., Ch. 472]

25 Sec. 1. Calhoun County Water Control and

26 Improvement District No. 1, hereinafter sometimes

27 referred to as "District," in Calhoun County, Texas,

28

1 [Acts 71st Leg., R.S., Ch. 518]
2 Sec. 1. In this Act, "district" means the
3 Calhoun County Water Control and Improvement District
4 No. 1.

5 Revisor's Note

6 The revised law adds the definition of "board"
7 for drafting convenience and to avoid frequent,
8 unnecessary repetition of the substance of the
9 definition.

10 Revised Law

11 Sec. 9088.0102. NATURE AND PURPOSE OF DISTRICT. (a) The
12 district is:

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

15 (2) a water control and improvement district; and

16 (3) a municipal corporation.

17 (b) The district's sole purpose is reclaiming and draining
18 the district's overflowed land and other land needing drainage.

19 (Acts 56th Leg., R.S., Ch. 472, Secs. 1 (part), 4 (part).)

20 Source Law

21 Sec. 1. [Calhoun County Water Control and
22 Improvement District No. 1 . . . is . . . a] . . .
23 conservation and reclamation district under Section
24 59, Article XVI, of the Constitution of Texas. Without
25 in any way limiting the generalization of the
26 foregoing, it is expressly provided that . . . [the
27 conversion of said District into] a water control and
28 improvement district [from a drainage district, and]
29 . . . provided, however, that such District shall be
30 considered to be organized and existing for the sole
31 purpose of the reclamation and drainage of its
32 overflowed lands and other lands needing drainage, and
33

34 Sec. 4. The Legislature hereby . . . declares
35 the District to be a governmental agency, a body
36 politic and corporate, and a municipal corporation.

37 Revisor's Note

38 (1) Section 1, Chapter 472, Acts of the 56th
39 Legislature, Regular Session, 1959, validates the
40 existence of the district, the board order designating
41 the area of the district, the conversion of the
42 district into a water control and improvement
43 district, and proceedings in connection with that

1 order and conversion. The revised law omits the
2 validation language because it served its purpose on
3 the day it took effect and is executed law. Section
4 311.031(a)(2), Government Code (Code Construction
5 Act), provides that the repeal of a statute does not
6 affect any validation previously made under the
7 statute. Therefore, the omission of the executed
8 validation provision does not affect the validation.
9 The omitted law reads:

10 Sec. 1. [Calhoun County Water
11 Control and Improvement District No. 1]
12 . . . is hereby in all things validated and
13 is hereby declared to be a validly existing
14 and operating [conservation and reclamation
15 district] . . . all proceedings in
16 connection with said order and said
17 conversion are hereby in all things
18 validated;

19 (2) Section 1, Chapter 472, Acts of the 56th
20 Legislature, Regular Session, 1959, provides that
21 certain actions are validated "[w]ithout in any way
22 limiting the generalization of the foregoing." The
23 revised law omits the quoted language as unnecessary
24 because an accepted principle of statutory
25 construction requires a statute to be given cumulative
26 effect with other statutes unless it provides
27 otherwise or unless the statutes are in conflict.

28 (3) Section 1, Chapter 472, Acts of the 56th
29 Legislature, Regular Session, 1959, provides that the
30 district was converted from a drainage district to a
31 water control and improvement district. The revised
32 law omits that language as executed. The omitted law
33 reads:

34 Sec. 1. . . . the conversion of said
35 District into [a water control and
36 improvement district] from a drainage
37 district, and

38 (4) Section 4, Chapter 472, Acts of the 56th
39 Legislature, Regular Session, 1959, refers to the

1 district as a "governmental agency, a body politic and
2 corporate." The revised law omits the quoted language
3 because it duplicates a portion of Section 59(b),
4 Article XVI, Texas Constitution.

5 Revised Law

6 Sec. 9088.0103. FINDINGS OF PURPOSE AND BENEFIT. (a) The
7 district is essential to the accomplishment of the purposes of
8 Section 59, Article XVI, Texas Constitution.

9 (b) All land and other property in the district benefit from
10 the district and improvements and facilities the district
11 constructs and acquires. (Acts 56th Leg., R.S., Ch. 472, Secs. 3
12 (part), 4 (part).)

13 Source Law

14 Sec. 3. It is hereby found and determined that
15 all of the lands and other property included within the
16 boundaries of the District are, and will be benefited
17 by said District and its improvements and facilities
18 to be constructed and acquired. . . .

19 Sec. 4. The Legislature hereby exercises the
20 authority conferred upon it by Section 59, Article
21 XVI, Constitution of Texas, and declares that said
22 District is essential to the accomplishment of the
23 purposes of said constitutional provision, finds that
24 all the land and other property included therein are,
25 and will be, benefited thereby, and

26 Revisor's Note

27 Section 4, Chapter 472, Acts of the 56th
28 Legislature, Regular Session, 1959, states that the
29 legislature "hereby exercises the authority conferred
30 upon it by Section 59, Article XVI, Constitution of
31 Texas." The revised law omits the quoted language as
32 executed.

33 Revised Law

34 Sec. 9088.0104. DISTRICT TERRITORY. The district has the
35 area and boundaries described by the board's order adopted on March
36 23, 1959, as that area and those boundaries may have been modified
37 under:

38 (1) Subchapter J, Chapter 49, Water Code;

39 (2) Subchapter O, Chapter 51, Water Code; or

1 (3) other law. (Acts 56th Leg., R.S., Ch. 472, Sec. 1
2 (part); New.)

3 Source Law

4 Sec. 1. . . . [it is expressly provided that]
5 the area and boundary lines of said District, as
6 redefined by order adopted on March 23, 1959, by the
7 Board of Directors of said District, . . . [are hereby
8 in all things validated;]

9 Revisor's Note

10 For the reader's convenience, the revised law
11 includes references to statutory authority to change
12 the district's territory under Subchapter J, Chapter
13 49, Water Code, and Subchapter O, Chapter 51, Water
14 Code, applicable to water control and improvement
15 districts, including the Calhoun County Water Control
16 and Improvement District No. 1, which was converted
17 into a water control and improvement district.
18 Throughout this chapter, the revised law omits law
19 that is superseded by Chapter 49, Water Code, or
20 duplicates law contained in that chapter, which is
21 applicable to the district under Sections 49.001 and
22 49.002 of that chapter. The revised law also includes a
23 reference to the general authority of the legislature
24 to enact other laws to change the district's territory.

25 SUBCHAPTER B. POWERS AND DUTIES

26 Revised Law

27 Sec. 9088.0201. WATER CONTROL AND IMPROVEMENT DISTRICT
28 POWERS. To accomplish the sole purpose of reclaiming and draining
29 the district's overflowed land and other land needing drainage, the
30 district has all of the rights, powers, privileges, and duties
31 provided by general law applicable to a water control and
32 improvement district created under Section 59, Article XVI, Texas
33 Constitution, including Chapters 49 and 51, Water Code. (Acts 56th
34 Leg., R.S., Ch. 472, Sec. 1 (part); New.)

35 Source Law

36 Sec. 1. . . . [provided, however, that such

1 District shall be considered to be organized and
2 existing for] the sole purpose of the reclamation and
3 drainage of its overflowed lands and other lands
4 needing drainage, and to accomplish such purpose such
5 District shall have and exercise, and is hereby vested
6 with, all the rights, powers, privileges and duties
7 conferred and imposed by the General Laws of the State
8 of Texas now in force and hereafter enacted applicable
9 to water control and improvement districts created
10 under authority of Section 59, Article XVI,
11 Constitution of Texas.

12 Revisor's Note

13 (1) Section 1, Chapter 472, Acts of the 56th
14 Legislature, Regular Session, 1959, states that the
15 district "shall have and exercise, and is hereby
16 vested with," certain rights, powers, privileges, and
17 duties. The revised law substitutes "has" for the
18 quoted language because, in context, the language has
19 the same meaning and "has" is more commonly used.

20 (2) Section 1, Chapter 472, Acts of the 56th
21 Legislature, Regular Session, 1959, states that the
22 district has the rights, powers, privileges, and
23 duties "conferred and imposed" by general law. The
24 revised law substitutes "provided" for "conferred and
25 imposed" because, in context, the meaning is the same
26 and "provided" is more commonly used.

27 (3) Section 1, Chapter 472, Acts of the 56th
28 Legislature, Regular Session, 1959, refers to the
29 general laws of this state "now in force and hereafter
30 enacted." The revised law omits the quoted language as
31 unnecessary under accepted general principles of
32 statutory construction. The "General Laws of the State
33 of Texas" means those laws "in force" at the time the
34 provision was adopted. It is unnecessary to state that
35 the district may be granted additional powers by later
36 enacted laws because those laws apply on their own
37 terms.

38 (4) Section 1, Chapter 472, Acts of the 56th
39 Legislature, Regular Session, 1959, refers to the

1 general laws "applicable to water control and
2 improvement districts." For the reader's convenience,
3 the revised law adds references to Chapter 51, Water
4 Code, specifically applicable to a water control and
5 improvement district, and to Chapter 49, Water Code.

6 SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

7 Revised Law

8 Sec. 9088.0301. TAX METHOD. (a) The district shall use the
9 ad valorem basis or plan of taxation.

10 (b) The board is not required to hold a hearing on the
11 adoption of a plan of taxation. (Acts 56th Leg., R.S., Ch. 472,
12 Sec. 3 (part).)

13 Source Law

14 Sec. 3. . . . The ad valorem basis or plan of
15 taxation shall be used by said District, and it shall
16 not be necessary for the Board of Directors of said
17 District to hold a hearing on the adoption of a plan of
18 taxation.

19 Revisor's Note
20 (End of Chapter)

21 (1) Section 2, Chapter 472, Acts of the 56th
22 Legislature, Regular Session, 1959, and Section 6,
23 Chapter 518, Acts of the 71st Legislature, Regular
24 Session, 1989, validate certain acts of the district
25 and certain board elections. The revised law omits
26 those provisions because they served their purpose on
27 the day they took effect and are executed law. Section
28 311.031(a)(2), Government Code (Code Construction
29 Act), provides that the repeal of a statute does not
30 affect any validation previously made under the
31 statute. Therefore, the omission of the executed
32 validation provisions does not affect those
33 validations. The omitted law reads:

34 [Acts 56th Leg., R.S., Ch. 472]

35 Sec. 2. All governmental proceedings
36 and acts performed by the governing board of
37 said District and all officers thereof in
38 connection with said District are hereby in
39 all things validated as of the respective

1 date of such proceedings and acts.

2 [Acts 71st Leg., R.S., Ch. 518]

3 Sec. 6. The election of district
4 directors since 1984 for two-year terms,
5 although required by general law to elect
6 directors for four-year terms, is
7 validated, and the election, terms of
8 office, actions, proceedings, and
9 expenditures of the district and the
10 directors are validated and may not be held
11 invalid because the directors were elected
12 to two-year terms at those elections.

13 (2) Section 5, Chapter 472, Acts of the 56th
14 Legislature, Regular Session, 1959, provides that the
15 act is severable. The revised law omits that provision
16 because the same result is produced by application of
17 Section 311.032, Government Code (Code Construction
18 Act), which provides that a provision of a statute is
19 severable from each other provision of the statute
20 that can be given effect. The omitted law reads:

21 Sec. 5. If any word, phrase, clause,
22 sentence, paragraph, or provision of this
23 Act is held to be invalid or
24 unconstitutional by a court of competent
25 jurisdiction in this State, it is the
26 intention of the Legislature that the
27 remaining provisions thereof shall be
28 effective, and that such remaining portions
29 shall remain in full force and effect.

30 (3) Section 2, Chapter 518, Acts of the 71st
31 Legislature, Regular Session, 1989, states that the
32 directors of the district serve staggered four-year
33 terms. The revised law omits the provision because it
34 duplicates Section 49.103(a), Water Code. The omitted
35 law reads:

36 Sec. 2. Except as provided by Section
37 5 of this Act, directors of the district
38 serve for staggered four-year terms.

39 (4) Section 3, Chapter 518, Acts of the 71st
40 Legislature, Regular Session, 1989, requires the
41 directors' election to be held on the third Saturday in
42 January in each even-numbered year. The revised law
43 omits this provision as superseded by the 1995
44 enactment of Section 49.103, Water Code. Section

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

8 Sec. 3. A directors' election shall
9 be held in the district on the third
10 Saturday in January in each even-numbered
11 year to elect the appropriate number of
12 directors.

13 (5) Section 4, Chapter 518, Acts of the 71st
14 Legislature, Regular Session, 1989, states that
15 "[e]xcept as provided by this Act," a directors'
16 election is held "as provided by Chapter 51, Water
17 Code, and the Election Code." The revised law omits the
18 reference to Chapter 51 because Chapter 715, Acts of
19 the 74th Legislature, Regular Session, 1995, enacted
20 Chapter 49, Water Code, as the general law applicable
21 to most water districts and repealed the pertinent
22 election provisions in Chapter 51. Similarly, the
23 revised law omits the reference to the Election Code
24 because that code applies to the district under
25 Section 1.002 of that code. Finally, the revised law
26 omits the phrase "[e]xcept as provided by this Act,"
27 because an exception would apply by its own terms. The
28 omitted law reads:

29 Sec. 4. Except as provided by this
30 Act, a directors' election in the district
31 is held as provided by Chapter 51, Water
32 Code, and the Election Code.

33 (6) Section 5, Chapter 518, Acts of the 71st
34 Legislature, Regular Session, 1989, provides for the
35 election of five directors on the third Saturday in
36 January 1990 and the terms of those directors. The
37 revised law omits that provision as executed. The

1 omitted law reads:

2 Sec. 5. (a) At the district's
3 regularly scheduled directors' election on
4 the third Saturday in January 1990, five
5 directors shall be elected. The three
6 directors that receive the highest number
7 of votes serve four-year terms. The
8 remaining two directors serve two-year
9 terms. Successors to the directors elected
10 pursuant to this section serve four-year
11 terms.

12 (b) If it is impossible to determine
13 the directors who are elected or the terms
14 of office under Subsection (a) of this
15 section because two or more candidates
16 received the same number of votes, the
17 persons who tied in number of votes shall
18 draw lots to determine who will be director
19 or to determine the terms of office, as
20 applicable.