

PRELIMINARY DRAFT

TEXAS LEGISLATIVE COUNCIL  
Special District Local  
Laws Code  
Chapter 9092  
1/2/25

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9 CHAPTER 9092. FRANKLIN COUNTY WATER DISTRICT

10 SUBCHAPTER A. GENERAL PROVISIONS

11 Revised Law

12 Sec. 9092.0101. DEFINITIONS. In this chapter:

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

14 (2) "Director" means a board member.

15 (3) "District" means the Franklin County Water  
16 District. (Acts 59th Leg., R.S., Ch. 719, Sec. 1 (part); New.)

17 Source Law

18 Sec. 1. . . . [district] to be known as  
19 "Franklin County Water District" (hereinafter  
20 referred to as the "District"), . . . .

21 Revisor's Note

22 The definitions of "board" and "director" are  
23 added to the revised law for drafting convenience and  
24 to eliminate frequent, unnecessary repetition of the  
25 substance of the definitions.

26 Revised Law

27 Sec. 9092.0102. NATURE OF DISTRICT. The district is:

28 (1) a conservation and reclamation district created  
29 under Section 59, Article XVI, Texas Constitution; and

30 (2) a political subdivision of this state. (Acts 59th  
31 Leg., R.S., Ch. 719, Sec. 1 (part); Acts 60th Leg., R.S., Ch. 308,  
32 Sec. 1 (part).)

33 Source Law

34 [Acts 59th Leg., R.S., Ch. 719]  
35 Sec. 1. Pursuant to, as expressly authorized by  
36 Section 59, Article XVI of the Constitution of the

1 State of Texas, and in addition to all other districts  
2 into which the State has been divided heretofore,  
3 there is hereby created a conservation and reclamation  
4 district . . . which shall be recognized to be a  
5 governmental agency, a body politic and corporate, and  
6 a political subdivision of this State. . . .

7 [Acts 60th Leg., R.S., Ch. 308]

8 Sec. 1. Franklin County Water District . . . is  
9 a fully organized and functioning conservation and  
10 reclamation district under the provisions of Section  
11 59 of Article XVI of the Texas Constitution and shall  
12 continue as such . . . .

13 Revisor's Note

14 (1) Section 1, Chapter 719, Acts of the 59th  
15 Legislature, Regular Session, 1965, provides that "in  
16 addition to all other districts into which the State  
17 has been divided heretofore," the district is "hereby  
18 created." The revised law omits the reference to the  
19 district's creation "in addition to all other  
20 districts into which the State has been divided  
21 heretofore" because the absence of the language does  
22 not imply that the legislature could create a district  
23 outside this state or that the district is not in  
24 addition to other districts created in this state. The  
25 revised law omits the reference to the district being  
26 "hereby created" as executed.

27 (2) Section 1, Chapter 719, Acts of the 59th  
28 Legislature, Regular Session, 1965, provides that the  
29 district "shall be recognized to be a governmental  
30 agency" and "a body politic and corporate." The  
31 revised law omits the quoted language because it  
32 duplicates part of Section 59(b), Article XVI, Texas  
33 Constitution.

34 Revised Law

35 Sec. 9092.0103. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.

36 (a) The district is:

- 37 (1) created to serve a public use and benefit; and  
38 (2) essential to the accomplishment of the  
39 preservation and conservation of this state's natural resources.

1 (b) All land in the district will benefit from the district.

2 (c) This chapter addresses a subject in which this state and  
3 the general public are interested.

4 (d) The district performs an essential public function  
5 under the Texas Constitution in carrying out the purposes of this  
6 chapter because the accomplishment of those purposes is for the  
7 benefit of the people of this state and the improvement of their  
8 properties and the industries. (Acts 59th Leg., R.S., Ch. 719,  
9 Secs. 2 (part), 14 (part), 17 (part).)

10 Source Law

11 Sec. 2. It being hereby found and determined  
12 that all of the land included within the boundaries of  
13 the District will be benefited and that the District is  
14 created to serve a public use and benefit, . . . .

15 Sec. 14. The accomplishment of the purposes  
16 stated in this Act being for the benefit of the people  
17 of this State and for the improvement of their  
18 properties and the industries, the District in  
19 carrying out the purposes of this Act will be  
20 performing an essential public function under the  
21 Constitution and . . . .

22 Sec. 17. [The Legislature hereby declares that  
23 the enactment hereof is in fulfillment of a duty  
24 conferred upon it by Section 59 of Article XVI of the  
25 Constitution of the State of Texas wherein it is  
26 required to pass such laws] as may be appropriate in  
27 the preservation and conservation of the natural  
28 resources of the State; that the District herein  
29 created is essential to the accomplishment of such  
30 purposes and that this Act therefore operates on a  
31 subject in which the State and the public at large are  
32 interested. . . .

33 Revisor's Note

34 Section 17, Chapter 719, Acts of the 59th  
35 Legislature, Regular Session, 1965, contains a  
36 legislative declaration of a constitutional "duty" to  
37 enact Chapter 719 as a law. The revised law omits the  
38 declaration by the legislature as executed and because  
39 it has no substantive effect. The omitted law reads:

40 Sec. 17. The Legislature hereby  
41 declares that the enactment hereof is in  
42 fulfillment of a duty conferred upon it by  
43 Section 59 of Article XVI of the  
44 Constitution of the State of Texas wherein  
45 it is required to pass such laws . . . .

1 Revised Law  
2 Sec. 9092.0104. DISTRICT TERRITORY. The district's  
3 boundaries are coextensive with the boundaries of Franklin County  
4 unless the district's territory has been modified under:  
5 (1) Subchapter J, Chapter 49, Water Code; or  
6 (2) other law. (Acts 59th Leg., R.S., Ch. 719, Sec. 1  
7 (part); New.)

8 Source Law  
9 Sec. 1. . . . The area of the District shall  
10 consist of all of the County of Franklin, State of  
11 Texas, and the boundaries of said District shall be  
12 identical with the boundaries of said County.

13 Revisor's Note  
14 The revised law includes language describing the  
15 territory of the district as coextensive with the  
16 boundaries of Franklin County. Because the district's  
17 boundaries are subject to change, that description may  
18 not be accurate on the effective date of the revision  
19 or at the time of a later reading. For the reader's  
20 convenience, the revised law includes a reference to  
21 the authority to change the district's territory under  
22 Subchapter J, Chapter 49, Water Code, applicable to  
23 the district under Sections 49.001 and 49.002 of that  
24 chapter. The revised law also includes a reference to  
25 the general authority of the legislature to enact  
26 other laws under which the district's territory may  
27 change.

28 Revised Law  
29 Sec. 9092.0105. CORRECTION OF INVALID PROCEDURES. If a  
30 court holds that any procedure under this chapter violates the  
31 United States Constitution or the Texas Constitution, the district  
32 by resolution may provide an alternative procedure that conforms  
33 with that constitution. (Acts 59th Leg., R.S., Ch. 719, Sec. 18  
34 (part).)

1 Source Law

2 Sec. 18. . . . [Federal or State Constitutions]  
3 . . . . Where any procedure hereunder may be held by  
4 any court to be violative of either of such  
5 Constitutions, the District shall have the power by  
6 resolution to provide an alternative procedure  
7 conformable to such Constitutions. . . .

8 Revisor's Note

9 Section 18, Chapter 719, Acts of the 59th  
10 Legislature, Regular Session, 1965, provides that the  
11 act may not be construed to violate the federal or  
12 state constitution and requires that action under the  
13 act comply with the constitutions.

14 The revised law omits as unnecessary the  
15 statement that the act may not be construed to violate  
16 the constitutions because under Section 311.021(1),  
17 Government Code (Code Construction Act), it is  
18 presumed that, in enacting a statute, compliance with  
19 the constitutions of the United States and this state  
20 is intended. The revised law omits as unnecessary the  
21 statement that actions done under the act must conform  
22 to the constitutions for the following reasons.

23 The revised law omits the provision as it relates  
24 to the federal constitution because under the  
25 Supremacy Clause of the United States Constitution  
26 (Clause 2, Article VI), federal law takes precedence  
27 over a state statute. The revised law omits the  
28 provision as it relates to the state constitution  
29 because the state legislature cannot modify a  
30 constitutional provision by statute. The omitted law  
31 reads:

32 Sec. 18. Nothing in this Act shall be  
33 construed to violate any provision of the  
34 Federal or State Constitutions and all acts  
35 done hereunder shall be done in such manner  
36 as may conform thereto whether herein  
37 expressly provided or not. . . .

38 Revised Law

39 Sec. 9092.0106. LIBERAL CONSTRUCTION OF CHAPTER. This

1 chapter shall be liberally construed to effectuate the chapter's  
2 purposes. (Acts 59th Leg., R.S., Ch. 719, Sec. 17 (part).)

3 Source Law

4 Sec. 17. . . . All the terms and provisions of  
5 this Act are to be liberally construed to effectuate  
6 the purposes herein set forth.

7 SUBCHAPTER B. BOARD OF DIRECTORS; ADMINISTRATIVE PROVISIONS

8 Revised Law

9 Sec. 9092.0201. COMPOSITION OF BOARD; BOARD ELECTION. The  
10 board consists of five directors elected as follows:

11 (1) one director represents and is elected from each  
12 county commissioners precinct in Franklin County by the voters of  
13 that precinct; and

14 (2) one director represents the district as a whole  
15 and is elected from the district at large. (Acts 59th Leg., R.S.,  
16 Ch. 719, Secs. 3(a) (part), (b) (part), (c) (part).)

17 Source Law

18 Sec. 3. (a) All powers of the District shall be  
19 exercised by a Board of five (5) Directors. . . .

20 (b) . . . Succeeding Directors shall be elected  
21 or . . . as hereinafter provided.

22 (c) . . . One director represents the District  
23 as a whole and is elected at-large. . . . One director  
24 represents each of the county commissioners precincts  
25 in Franklin County. The director for a precinct is  
26 elected by qualified voters residing in the  
27 precinct. . . . Only qualified voters residing in the  
28 District shall be entitled to vote at said  
29 election. . . .

30 Revisor's Note

31 (1) Section 3(a), Chapter 719, Acts of the 59th  
32 Legislature, Regular Session, 1965, provides that  
33 "[a]ll powers of the District shall be exercised by"  
34 the board. The revised law omits the quoted language  
35 because it duplicates, in substance, parts of Sections  
36 49.051 and 49.057, Water Code, which provide that the  
37 district is governed by the board and that the board is  
38 responsible for the district's management. Throughout  
39 this chapter, the revised law omits law that is  
40 superseded by or duplicates law in Chapter 49, Water



1 Code, which was enacted by Chapter 715, Acts of the  
2 74th Legislature, Regular Session, 1995, and applies  
3 to the district under Sections 49.001 and 49.002 of  
4 that code.

5 (2) Section 3(c), Chapter 719, Acts of the 59th  
6 Legislature, Regular Session, 1965, provides that each  
7 director who represents a precinct is elected by the  
8 "qualified" voters "residing in" the precinct and that  
9 "[o]nly qualified voters residing in the District  
10 shall be entitled to vote at said election." The  
11 revised law omits the quoted language because it  
12 duplicates, in substance, Sections 11.001(a)(1) and  
13 (2), Election Code, which provide that to be eligible  
14 to vote in an election a person must be a qualified  
15 voter as defined by Section 11.002, Election Code, and  
16 be a resident of the territory covered by the election.  
17 Throughout this chapter, the revised law omits law  
18 that is superseded by or duplicates law in the Election  
19 Code, which was enacted in 1985 and applies to the  
20 district under Section 1.002 of that code.

21 Revised Law

22 Sec. 9092.0202. QUALIFICATIONS. (a) A candidate for:

23 (1) the at-large director position must be a qualified  
24 voter who resides in the district; and

25 (2) a precinct director position must be a qualified  
26 voter who resides in that precinct.

27 (b) A director must:

28 (1) be at least 18 years of age; and

29 (2) reside in and own land in the district. (Acts 59th  
30 Leg., R.S., Ch. 719, Secs. 3(a) (part), (c) (part).)

31 Source Law

32 (a) . . . No person shall be a Director unless  
33 he is at least twenty-one years of age, resides in and  
34 owns land in the territorial limits of the  
35 District. . . .

1 (c) . . . A candidate for the at-large  
2 directorship must be a qualified voter who resides in  
3 the District. . . . A candidate for a precinct's  
4 directorship must be a qualified voter who resides in  
5 the precinct. . . .

6 Revisor's Note

7 Section 3(a), Chapter 719, Acts of the 59th  
8 Legislature, Regular Session, 1965, states that a  
9 person must be "at least twenty-one years of age" to  
10 serve as a director. The revised law substitutes "at  
11 least 18 years of age" for the quoted language because  
12 Section 129.001, Civil Practice and Remedies Code,  
13 establishes 18 years as the age of majority in this  
14 state. Section 129.002, Civil Practice and Remedies  
15 Code, provides that a law adopted before August 27,  
16 1973, that extends a right, privilege, or obligation  
17 to an individual on the basis of a minimum age of 19,  
18 20, or 21 years shall be interpreted as prescribing a  
19 minimum age of 18 years. Section 3(a) was enacted in  
20 1965 and has not been amended.

21 Revised Law

22 Sec. 9092.0203. DIRECTORS' ELECTION. (a) A directors'  
23 election shall be held on the first Saturday in May of each  
24 odd-numbered year to elect the appropriate number of directors.

25 (b) The election order for the election of directors must  
26 state the time, place, and purpose of the election.

27 (c) Notwithstanding Chapter 32, Election Code:

28 (1) the board shall appoint presiding judges as  
29 necessary; and

30 (2) each presiding judge shall appoint one assistant  
31 judge and at least two clerks to assist in holding the election.

32 (d) The board shall enter an order declaring the results of  
33 the election. (Acts 59th Leg., R.S., Ch. 719, Sec. 3(c) (part).)

34 Source Law

35 (c) . . . A directors' election shall be held on  
36 the first Saturday in May of each odd-numbered year to  
37 elect the appropriate number of directors. Except as  
38 provided by this Act, a directors' election is held as

1 provided by Chapter 49, Water Code, and the Election  
2 Code. . . . The election order shall state the time,  
3 places, and purpose of the election. The Board of  
4 Directors shall appoint presiding judges as necessary.  
5 Each presiding judge shall appoint one assistant judge  
6 and at least two clerks to assist in holding such  
7 election. . . . [Returns of the election shall be made  
8 to and canvassed by the Board of Directors of said  
9 District,] which shall enter its order declaring the  
10 results of the election.

11 Revisor's Note

12 (1) Section 3(c), Chapter 719, Acts of the 59th  
13 Legislature, Regular Session, 1965, provides that,  
14 except as provided by the act, a directors' election  
15 must be held as provided by Chapter 49, Water Code, and  
16 the Election Code. Section 3(c) further provides for  
17 the requirements for the contents of an election order  
18 and the appointment of election judges and clerks.

19 The revised law omits the reference to Chapter  
20 49, Water Code, because Chapter 49 applies to the  
21 district under Sections 49.001 and 49.002 of that  
22 code. The revised law omits the reference to the  
23 Election Code because that code applies to the  
24 district under Section 1.002 of that code and Section  
25 49.101, Water Code. The revised law omits the phrase  
26 "[e]xcept as provided by this Act" as unnecessary for  
27 each provision of Chapter 719 that relates to a  
28 directors' election, except the provision pertaining  
29 to the appointment of election judges and clerks.

30 Section 1.002(b), Election Code, enacted in 1985,  
31 provides that the Election Code "supersedes a  
32 conflicting statute outside this code unless this code  
33 or the outside statute expressly provides otherwise."  
34 The express exception provision of Section 3(c),  
35 Chapter 719, was enacted in 1997 by Chapter 3, Acts of  
36 the 75th Legislature, Regular Session, 1997. Although  
37 this express exception was enacted after the 1985  
38 enactment of the Election Code, it is not necessary for  
39 the revised law to maintain this express exception for

1 the majority of Chapter 719. Almost every provision of  
2 Chapter 719 that relates to a directors' election is  
3 expressly authorized by a provision of the Election  
4 Code (such as Section 3.002, Election Code, which  
5 provides that a law outside Chapter 3, Election Code,  
6 pertaining to election orders supersedes that chapter  
7 in the case of a conflict), is superseded by a  
8 provision of the Election Code enacted after 1997,  
9 duplicates a provision of the Election Code, or does  
10 not conflict with the Election Code. See Sections  
11 9092.0201 and 9092.0205 of this chapter and Revisor's  
12 Note (5) at the end of this subchapter.

13 The express exception provision in Section 3(c)  
14 from 1997 does affect the provision of 3(c) that  
15 establishes requirements for the appointment of  
16 election judges and clerks. Chapter 32, Election Code,  
17 would supersede Section 3(c) without the 1997  
18 exception provision. To preserve the effect of the  
19 1997 exception provision, the revised law substitutes  
20 for that provision a statement that the provision of  
21 Section 3(c) pertaining to the appointment of election  
22 judges and clerks is not superseded by Chapter 32,  
23 Election Code.

24 (2) Section 3(c), Chapter 719, Acts of the 59th  
25 Legislature, Regular Session, 1965, provides that a  
26 directors' election must be conducted in accordance  
27 with Chapter 49, Water Code, and the Election Code,  
28 except that notice of a directors' election must be  
29 published in accordance with the general laws  
30 applicable to water control and improvement districts.  
31 The revised law omits the reference to the general laws  
32 applicable to water control and improvement districts  
33 as unnecessary because the parts of those general laws  
34 that relate to notice of a directors' election are in

1 Chapter 49, Water Code, and the Election Code, which  
2 apply to the district on their own terms.

3 At the time Section 3(c) was enacted, Section 28,  
4 Chapter 25, General Laws, Acts of the 39th  
5 Legislature, Regular Session, 1925, provided  
6 procedures for giving notice of a directors' election  
7 for a water control and improvement district. Section  
8 28 was codified as Section 51.222, Water Code  
9 (applicable to water control and improvement  
10 districts), in Chapter 58, Acts of the 62nd  
11 Legislature, Regular Session, 1971. Chapter 715, Acts  
12 of the 74th Legislature, Regular Session, 1995,  
13 repealed Section 51.222, Water Code, and enacted  
14 Section 49.102(b), Water Code, which provides that  
15 notice of a directors' election must state the day and  
16 place or places for holding the election, the  
17 propositions to be voted on, and, if applicable, the  
18 number of directors to be voted on. Section 49.102(b),  
19 Water Code, applies to the district on its own terms.  
20 Furthermore, Section 4.004, Election Code, applicable  
21 to the district under Section 1.002, Election Code,  
22 and Section 49.101, Water Code, provides additional  
23 requirements for the content of the notice of a  
24 directors' election. The omitted law reads:

25 (c) . . . [Except as provided by this  
26 Act, a directors' election is held as  
27 provided by Chapter 49, Water Code, and the  
28 Election Code.] Notice of the election  
29 shall be published in accordance with the  
30 General Law applicable to water control and  
31 improvement districts. . . .

32 Revised Law

33 Sec. 9092.0204. VACANCIES. If a vacancy occurs in the  
34 membership of the board, the remaining directors shall appoint a  
35 person to fill the vacancy until the next directors' election. If  
36 the vacant position is not regularly scheduled to be filled at that  
37 election, the director elected at that election to fill the vacancy

1 shall serve only for the unexpired term. (Acts 59th Leg., R.S., Ch.  
2 719, Secs. 3(b) (part), (e).)

3 Source Law

4 (b) . . . [Succeeding Directors shall be  
5 elected or] appointed [as hereinafter provided].

6 (e) If a vacancy occurs in the membership of the  
7 Board, the remaining members of the Board shall  
8 appoint a person to fill the vacancy until the next  
9 election of Directors for the District. If the vacant  
10 position is not regularly scheduled to be filled at  
11 that election, the person elected at that election to  
12 fill the vacancy shall serve only for the unexpired  
13 term.

14 Revised Law

15 Sec. 9092.0205. BALLOT PETITION. (a) A person who wants  
16 the person's name printed on the ballot as a candidate for director  
17 must submit to the board's secretary a petition requesting that  
18 action.

19 (b) The petition must be signed by at least 10 residents of  
20 the district who are qualified to vote at the election. (Acts 59th  
21 Leg., R.S., Ch. 719, Sec. 3(d) (part).)

22 Source Law

23 (d) Any candidate for Director desiring to have  
24 his name printed on the ballot may do so by a petition  
25 so requesting signed by not less than ten (10)  
26 residents of the District who are qualified to vote at  
27 the election. Such petition shall be presented to the  
28 Secretary of the Board of Directors . . . .

29 Revisor's Note

30 Section 3(d), Chapter 719, Acts of the 59th  
31 Legislature, Regular Session, 1965, provides that a  
32 petition to be on the ballot as a candidate for  
33 supervisor must be presented to the secretary of the  
34 board not less than 35 days before the election. The  
35 revised law omits that provision as superseded by  
36 Section 144.005(c), Election Code, which was enacted  
37 in 2003. Section 144.005 provides the deadlines for  
38 filing an application for candidacy for the governing  
39 body of a political subdivision and requires political  
40 subdivisions to comply with those deadlines regardless

1 of laws outside the Election Code. Under Section  
2 141.032, Election Code, a petition is considered part  
3 of the application for filing for candidacy. The  
4 omitted law reads:

5 (d) . . . not less than thirty-five  
6 (35) full days prior to the date of the  
7 election.

8 Revised Law

9 Sec. 9092.0206. QUORUM. Three directors constitute a  
10 quorum for the transaction of all business. A favorable vote of a  
11 majority of a quorum present is sufficient for the enactment of all  
12 measures. (Acts 59th Leg., R.S., Ch. 719, Sec. 3(g) (part).)

13 Source Law

14 (g) . . . Three (3) members of the Board shall  
15 constitute a quorum for the transaction of all  
16 business and a favorable vote of a majority of a quorum  
17 present shall be sufficient for the enactment of all  
18 measures. . . .

19 Revised Law

20 Sec. 9092.0207. OFFICERS. (a) The board shall elect from  
21 the board's membership a president, a vice president, and any other  
22 officers as the board determines necessary.

23 (b) The board shall appoint a secretary, who is not required  
24 to be a director. (Acts 59th Leg., R.S., Ch. 719, Sec. 3(g)  
25 (part).)

26 Source Law

27 (g) The Board of Directors of the District shall  
28 elect from its number a President and a Vice President,  
29 and such other officers as in the judgment of the Board  
30 are necessary. . . . The Board shall also appoint a  
31 Secretary, who may or may not be a member of the  
32 Board. . . .

33 Revisor's Note

34 Section 3(g), Chapter 719, Acts of the 59th  
35 Legislature, Regular Session, 1965, establishes the  
36 duties of the board president. The revised law omits  
37 that provision because it duplicates, in substance,  
38 Section 49.054(c), Water Code, which provides that the  
39 president is the district's chief executive officer

1 and presides at all board meetings. The omitted law  
2 reads:

3 (g) . . . The President shall be the  
4 chief executive officer, and the presiding  
5 officer of the Board, and . . . .

6 Revised Law

7 Sec. 9092.0208. VOTE BY BOARD PRESIDENT. The president has  
8 the same right to vote as any other director. (Acts 59th Leg.,  
9 R.S., Ch. 719, Sec. 3(g) (part).)

10 Source Law

11 (g) . . . [The President] . . . shall have the  
12 same right to vote as any other Director. . . .

13 Revised Law

14 Sec. 9092.0209. ABSENCE OR INACTION OF BOARD  
15 PRESIDENT. When the president is absent or fails or declines to  
16 act, the vice president shall perform all duties and exercise all  
17 powers this chapter confers on the president. (Acts 59th Leg.,  
18 R.S., Ch. 719, Sec. 3(g) (part).)

19 Source Law

20 (g) . . . The Vice President shall perform all  
21 duties and exercise all power conferred by this Act  
22 upon the President when the President is absent or  
23 fails to or declines to act. . . .

24 Revised Law

25 Sec. 9092.0210. DIRECTOR'S BOND. Each director shall give  
26 bond in the amount of \$5,000 conditioned on the faithful  
27 performance of the director's duties. (Acts 59th Leg., R.S., Ch.  
28 719, Sec. 3(a) (part).)

29 Source Law

30 (a) . . . [Said Directors] . . . each shall give  
31 bond in the amount of Five Thousand Dollars (\$5,000)  
32 for the faithful performance of his duties, . . . .

33 Revisor's Note

34 Section 3(a), Chapter 719, Acts of the 59th  
35 Legislature, Regular Session, 1965, provides that the  
36 district shall pay the cost of a director's bond. The  
37 revised law omits the provision because it duplicates  
38 part of Section 49.055(c), Water Code. The omitted law



1 reads:

2 (a) . . . [Said Directors . . . shall  
3 give bond] . . . the cost of which shall be  
4 paid by the District.

5 Revised Law

6 Sec. 9092.0211. BOARD MEETINGS. (a) The board shall hold  
7 regular meetings at least once a month at the time and place set by  
8 board resolution or board bylaws.

9 (b) The president or any two directors may call a special  
10 meeting as necessary in administering district business.

11 (c) At least five days before the date of a special meeting,  
12 the secretary shall mail notice of the special meeting to each  
13 director. A director may waive the notice in writing. (Acts 59th  
14 Leg., R.S., Ch. 719, Sec. 3(g) (part).)

15 Source Law

16 (g) . . . The Directors shall hold regular  
17 meetings at least once a month at such time and place  
18 as is fixed by resolution or bylaws of the Board. The  
19 President or any two (2) members may call such special  
20 meetings as may be necessary in the administration of  
21 the District's business provided that at least five (5)  
22 days prior to the meeting date the Secretary shall have  
23 mailed notice to each member, and notice of special  
24 meetings may be waived in writing by any Director.

25 Revisor's Note

26 Section 3(g), Chapter 719, Acts of the 59th  
27 Legislature, Regular Session, 1965, requires the  
28 directors to hold regular meetings at least once a  
29 month at a time and place "fixed" by board resolution  
30 or bylaws. The revised law substitutes "set" for  
31 "fixed" because, in context, the terms have the same  
32 meaning and "set" is more commonly used.

33 Revised Law

34 Sec. 9092.0212. DISTRICT RECORDS. The board's accounts of  
35 its meetings and proceedings and its minutes, contracts, notices,  
36 and other records are subject to public inspection. (Acts 59th  
37 Leg., R.S., Ch. 719, Sec. 3(h) (part).)

38 Source Law

39 (h) [The Directors shall carefully keep and

1 preserve a true and full account of all their meetings  
2 and proceedings, and preserve their minutes,  
3 contracts, records, notices, . . . and records of all  
4 kinds.] The same shall be . . . subject to public  
5 inspection. . . .

6 Revisor's Note

7 Section 3(h), Chapter 719, Acts of the 59th  
8 Legislature, Regular Session, 1965, requires the board  
9 to keep a full account of the board's meetings and  
10 proceedings and preserve the board's records and also  
11 provides that the records are district property. The  
12 revised law omits those provisions because they  
13 duplicate, in substance, part of Section 49.065, Water  
14 Code, which requires the district to keep and preserve  
15 records and provides that those records are district  
16 property.

17 In addition, Section 3(h) provides that the  
18 "accounts" and "receipts" of the district are subject  
19 to public inspection. Because the accounts and  
20 receipts are fiscal records for purposes of Section  
21 49.196(b), Water Code, the revised law omits that  
22 provision as superseded by Sections 49.191(b) and  
23 49.196(b) of that code, which provide that a district's  
24 fiscal records shall be available for public  
25 inspection during regular business hours. The omitted  
26 law reads:

27 (h) The Directors shall carefully  
28 keep and preserve a true and full account of  
29 all their meetings and proceedings, and  
30 preserve their minutes, contracts, records,  
31 notices, accounts, receipts and records of  
32 all kinds. [The same shall be] the property  
33 of the District and . . . .

34 Revised Law

35 Sec. 9092.0213. DISTRICT OFFICE. A regular office shall be  
36 established and maintained in the district for conducting district  
37 business. (Acts 59th Leg., R.S., Ch. 719, Sec. 3(h) (part).)

38 Source Law

39 (h) . . . A regular office shall be established  
40 and maintained within the District for the conduct of

1 its business. . . .

2 Revised Law

3 Sec. 9092.0214. EMPLOYEES. The district may employ a  
4 general manager, attorneys, accountants, engineers, financial  
5 experts, or other technical or nontechnical employees or assistants  
6 and set the amount and manner of their compensation. (Acts 59th  
7 Leg., R.S., Ch. 719, Sec. 4 (part).)

8 Source Law

9 Sec. 4. . . . Without limiting the generality  
10 of the foregoing, the District shall and is hereby  
11 empowered to exercise the following powers, privileges  
12 and functions:

13 . . .  
14 (5) . . . to employ a general manager,  
15 attorneys, accountants, engineers, financial experts,  
16 or other technical or nontechnical employees or  
17 assistants; further to fix the amount and manner of  
18 their compensation and . . . .

19 Revisor's Note

20 (1) Section 4, Chapter 719, Acts of the 59th  
21 Legislature, Regular Session, 1965, states that  
22 "[w]ithout limiting the generality of the foregoing,"  
23 the district has certain powers, privileges, and  
24 functions. Throughout this chapter, the revised law  
25 omits the quoted or similar language because it is an  
26 accepted general principle of statutory construction  
27 that a grant of a power does not act as a limitation.  
28 Additionally, Section 311.021(2), Government Code  
29 (Code Construction Act), provides that it is presumed  
30 that, in enacting a statute, the entire statute is  
31 intended to be effective.

32 (2) Section 4, Chapter 719, Acts of the 59th  
33 Legislature, Regular Session, 1965, provides that the  
34 district "shall and is hereby empowered to exercise"  
35 certain "powers, privileges and functions."  
36 Throughout this chapter, the revised law substitutes  
37 "may" or "has" for the quoted or similar language  
38 because, in context, the language has the same meaning  
39 and "may" and "has" are more commonly used.

1 (3) Section 4(5), Chapter 719, Acts of the 59th  
2 Legislature, Regular Session, 1965, authorizes the  
3 district to "fix" the amount and manner of the  
4 compensation of certain employees. The revised law  
5 substitutes "set" for "fix" for the reason stated in  
6 the revisor's note to Section 9092.0211.

7 Revised Law

8 Sec. 9092.0215. EXPENDITURES. The district may provide for  
9 the payment of expenditures considered essential to the proper  
10 operation and maintenance of the district and the district's  
11 affairs. (Acts 59th Leg., R.S., Ch. 719, Sec. 4 (part).)

12 Source Law

13 Sec. 4. . . . the District shall and is hereby  
14 empowered to exercise the following powers, privileges  
15 and functions:

16 . . .  
17 (5) . . . to provide for the payment of all  
18 expenditures deemed essential to the proper operation  
19 and maintenance of the District and its affairs.  
20 . . .

21 Revisor's Note  
22 (End of Subchapter)

23 (1) Section 3(a), Chapter 719, Acts of the 59th  
24 Legislature, Regular Session, 1965, provides that each  
25 director serves until the director's successor is  
26 elected or appointed and qualified. The revised law  
27 omits that provision because it duplicates, in  
28 substance, Section 17, Article XVI, Texas  
29 Constitution, which requires an officer of this state  
30 to continue to perform the officer's duties until a  
31 successor has qualified. The omitted law reads:

32 (a) . . . Each Director shall serve  
33 a term of office as herein provided, and  
34 thereafter until his successor shall be  
35 elected or appointed and qualified. . . .

36 (2) Section 3(a), Chapter 719, Acts of the 59th  
37 Legislature, Regular Session, 1965, requires each  
38 director to take the constitutional oath of  
39 office. The revised law omits that provision because

1 it duplicates, in substance, Section 1, Article XVI,  
2 Texas Constitution, which requires all officers to  
3 take the oath (or affirmation) before assuming  
4 office. The omitted law reads:

5 (a) . . . Said Directors shall  
6 subscribe to the Constitutional Oath of  
7 office and . . . .

8 (3) Section 3(b), Chapter 719, Acts of the 59th  
9 Legislature, Regular Session, 1965, names the initial  
10 directors, provides for filling a vacancy on that  
11 board, and provides for their terms of office. Because  
12 the initial directors' terms have expired, the revised  
13 law omits the language as executed. The omitted law  
14 reads:

15 (b) Immediately after this Act  
16 becomes effective, the following named  
17 persons (all at least twenty-one years of  
18 age and residing and being owners of land  
19 within said District) shall be the  
20 Directors of said District, and shall  
21 constitute the Board of Directors of said  
22 District:

23 W. C. Newsome  
24 Horris Morris  
25 A. J. Laws  
26 D. O. Aldridge  
27 Landon Ramsay

28 If any of the aforementioned persons shall  
29 become incapacitated or otherwise not be  
30 qualified to assume his duties under this  
31 Act, the remaining Directors shall appoint  
32 his successor. . . .

33 (4) Section 3(c), Chapter 719, Acts of the 59th  
34 Legislature, Regular Session, 1965, states that a  
35 director serves for a four-year term. The revised law  
36 omits that provision because it duplicates Section  
37 49.103(a), Water Code. The omitted law reads:

38 (c) Members of the Board of Directors  
39 of the District serve for four-year  
40 terms. . . .

41 (5) Section 3(c), Chapter 719, Acts of the 59th  
42 Legislature, Regular Session, 1965, provides that the  
43 board shall receive and canvass election returns. The  
44 revised law omits that requirement because it

1 duplicates, in substance, Section 67.002, Election  
2 Code, which requires the governing body of a political  
3 subdivision that orders an election to canvass the  
4 returns. Section 67.002, Election Code, applies to  
5 district elections under Section 67.001 of that code.  
6 The omitted law reads:

7 (c) . . . Returns of the election  
8 shall be made to and canvassed by the Board  
9 of Directors of said District, . . . .

10 (6) Section 3(f), Chapter 719, Acts of the 59th  
11 Legislature, Regular Session, 1965, provides that a  
12 director is entitled to a fee of \$50 for each day the  
13 director spends performing the director's duties but  
14 may not receive more than \$200 for any calendar month.  
15 The revised law omits that provision for the following  
16 reasons. Section 49.060, Water Code, also provides  
17 for a director's fees of office, computed on a rate per  
18 day of certain service. Section 49.060(a), Water  
19 Code, requires the board to adopt a resolution setting  
20 the fees of office in accordance with the requirements  
21 of Section 49.060. Sections 49.060(a-1) and (a-2),  
22 Water Code, require the board by resolution to set a  
23 limit on the fees of office that a director may receive  
24 in a year and cap the limit at a certain amount.  
25 Section 49.060(e), Water Code, provides that, in all  
26 areas of conflict, Section 49.060 takes precedence  
27 over all prior statutory enactments. The omitted law  
28 reads:

29 (f) A Director shall receive \$50 a  
30 day for each day the Director spends  
31 performing the duties of Director, but may  
32 not receive more than \$200 for any calendar  
33 month. . . .

34 (7) Section 3(f), Chapter 719, Acts of the 59th  
35 Legislature, Regular Session, 1965, provides for  
36 reimbursement of a director's actual expenses incurred  
37 when conducting district business if approved by the

1 board. The revised law omits that provision because it  
2 is superseded by Sections 49.060(b) and (c), Water  
3 Code, which authorize reimbursement of a director's  
4 expenses if certain conditions are met. Section  
5 49.060(e), Water Code, provides that, in all areas of  
6 conflict, Section 49.060 takes precedence over all  
7 prior statutory enactments. The omitted law reads:

8 (f) . . . A Director shall also be  
9 entitled to receive reimbursement for  
10 actual expenses incurred in attending to  
11 District business, provided that such  
12 expenses are approved by the Board.

13 (8) Section 3, Chapter 412, Acts of the 69th  
14 Legislature, Regular Session, 1985, and Section 2,  
15 Chapter 3, Acts of the 75th Legislature, Regular  
16 Session, 1997, provide the manner in which certain  
17 directors' elections will be held under those acts and  
18 describe those directors' terms of office. Because the  
19 terms of office of those directors have expired and  
20 those directors' elections have been held, the revised  
21 law omits the provisions as executed. The omitted law  
22 reads:

23 [Acts 69th Leg., R.S., Ch. 412]  
24 Sec. 3. Notwithstanding the  
25 amendment of Section 3(c), Chapter 719,  
26 Acts of the 59th Legislature, Regular  
27 Session, 1965 (Article 8280-341, Vernon's  
28 Texas Civil Statutes), by this Act, the  
29 directors' election scheduled under the  
30 former law to be held in 1986 shall be held  
31 on the first Saturday in April 1986, and the  
32 two directors elected at that directors'  
33 election shall serve three-year terms.  
34 Beginning in 1987 directors shall be  
35 elected to serve four-year terms in  
36 accordance with Section 3(c), Chapter 719,  
37 Acts of the 59th Legislature, Regular  
38 Session, 1965 (Article 8280-341, Vernon's  
39 Texas Civil Statutes).

40 [Acts 75th Leg., R.S., Ch. 3]  
41 Sec. 2. (a) The directors of the  
42 Franklin County Water District whose terms  
43 expire in 1997 shall continue in office  
44 until successor directors are elected as  
45 provided by Subsection (b) or (c) of this  
46 section and qualify for office.  
47 (b) Except as provided by Subsection  
48 (c) of this section, the election of

1 directors of the Franklin County Water  
2 District for Franklin County commissioners  
3 precincts numbers one and two shall be held  
4 the first Saturday of May 1997.

5 (c) If this Act takes effect after  
6 March 9, 1997, or has not received from the  
7 United States Department of Justice or the  
8 United States District Court for the  
9 District of Columbia preclearance under  
10 Section 5, Voting Rights Act of 1965 (42  
11 U.S.C. Section 1973c), on or before that  
12 date, the election of directors of Franklin  
13 County Water District for Franklin County  
14 commissioners precincts numbers one and two  
15 shall be held on the first uniform election  
16 date provided by Section 41.001, Election  
17 Code, that falls 45 or more days after the  
18 first day on which this Act has preclearance  
19 and is given effect. If on the effective  
20 date of this Act the Franklin County Water  
21 District has called an election and the  
22 election has not yet been held, the election  
23 shall be postponed and held on the first  
24 uniform election date provided by Section  
25 41.001, Election Code, that falls 45 or more  
26 days after the first day on which this Act  
27 has preclearance and is given effect. If the  
28 Franklin County Water District receives  
29 notice that this Act is not precleared under  
30 Section 5, Voting Rights Act of 1965 (42  
31 U.S.C. Section 1973c), the elections shall  
32 be held in accordance with current law on  
33 the first uniform election date provided by  
34 Section 41.001, Election Code, that falls  
35 45 or more days after the date the district  
36 receives the notice.

37 (d) The election of directors of the  
38 Franklin County Water District for Franklin  
39 County commissioners precincts numbers  
40 three and four shall be held the first  
41 Saturday in May 1999. The election of the  
42 director at-large of the Franklin County  
43 Water District shall be held the first  
44 Saturday in May 1999.

45 (e) The directors of the Franklin  
46 County Water District whose terms expire in  
47 1999 shall represent the interests of all  
48 residents of the district and shall  
49 continue in office until successor  
50 directors are elected as provided by  
51 Subsection (d) of this section.

## 52 SUBCHAPTER C. POWERS AND DUTIES

### 53 Revised Law

54 Sec. 9092.0301. GENERAL POWERS. (a) The district has all  
55 the rights, powers, and privileges conferred by general law  
56 applicable to a water control and improvement district created  
57 under Section 59, Article XVI, Texas Constitution, including  
58 Chapter 51, Water Code.

59 (b) The district may exercise all functions and perform any



1 act necessary or proper to carry out the purpose for which the  
2 district is created. (Acts 59th Leg., R.S., Ch. 719, Sec. 4 (part);  
3 New.)

4 Source Law

5 Sec. 4. The District herein created shall have  
6 and possess and is hereby vested with all the rights,  
7 powers and privileges conferred by the General Laws of  
8 this State now in force and effect or hereafter enacted  
9 applicable to water control and improvement districts  
10 created under the authority of Article XVI, Section  
11 59, of the Texas Constitution, but to the extent that  
12 said General Laws may be inconsistent or in conflict  
13 herewith, the provisions of this Act shall  
14 prevail. . . .

15 . . . the District shall and is hereby empowered  
16 to exercise the following powers, privileges and  
17 functions:

18 . . .  
19 (6) To exercise all functions to permit the  
20 accomplishment of its purposes . . . .

21 (7) To do any and all other acts or things  
22 necessary or proper to carry into effect the purpose  
23 for which the District is created and organized.

24 Revisor's Note

25 (1) Section 4, Chapter 719, Acts of the 59th  
26 Legislature, Regular Session, 1965, provides that the  
27 district has the powers conferred by general law on a  
28 water control and improvement district. For the  
29 reader's convenience, the revised law includes a  
30 reference to Chapter 51, Water Code, which applies to  
31 water control and improvement districts.

32 (2) Section 4, Chapter 719, Acts of the 59th  
33 Legislature, Regular Session, 1965, provides that the  
34 authority has all rights, powers, and privileges  
35 conferred by the general laws of this state "now in  
36 force and effect or hereafter enacted" applicable to  
37 water control and improvement districts, "but to the  
38 extent that said General Laws may be inconsistent or in  
39 conflict herewith, the provisions of this Act shall  
40 prevail."

41 The revised law omits "now in force and effect" as  
42 unnecessary under general principles of statutory

1 construction. The "general laws of this state" means  
2 those laws "in force and effect" at the time the  
3 provision was adopted.

4 The revised law omits "hereafter enacted" because  
5 it is unnecessary to state that the district may be  
6 granted additional powers by later enacted laws. Those  
7 laws apply on their own terms.

8 The revised law omits as unnecessary and  
9 potentially misleading the quoted provision about the  
10 act prevailing over conflicting general law. To the  
11 extent the provision means that the act prevails over  
12 other law in existence at the time the act became  
13 effective and with which the act conflicts, the  
14 provision merely restates general principles of  
15 statutory construction. To the extent the provision  
16 means the act prevails over future enactments of the  
17 legislature that may conflict with it, the provision  
18 is misleading. It is a fundamental principle of  
19 statutory construction that one session of the  
20 legislature may not bind a future session of the  
21 legislature. In addition, Section 311.026, Government  
22 Code (Code Construction Act), governs the  
23 interpretation of the revised law in instances of  
24 apparent conflict with other laws.

25 (3) Section 4(7), Chapter 719, Acts of the 59th  
26 Legislature, Regular Session, 1965, authorizes the  
27 district to carry out acts related to the purpose for  
28 which the district is created and "organized." The  
29 revised law omits "organized" as unnecessary because,  
30 in context, it is included in the meaning of "created."

31 Revised Law

32 Sec. 9092.0302. GENERAL WATER SUPPLY POWERS. The district  
33 may:

34 (1) control, store, preserve, and distribute the

1 district's waters and flood waters and the waters of the district's  
2 rivers and streams for all useful purposes by all practicable  
3 means, including the construction, maintenance, and operation of  
4 all appropriate improvements, plants, works, and facilities, and  
5 the acquisition of water rights and all other properties, lands,  
6 tenements, easements, and rights necessary to the purpose of the  
7 organization of the district;

8 (2) process and store such waters and distribute those  
9 waters for municipal, domestic, irrigation, and industrial  
10 purposes, subject to Subchapters A through D, Chapter 11, and  
11 Subchapter B, Chapter 12, Water Code; and

12 (3) purchase or contract for the purchase of water or a  
13 water supply from any person. (Acts 59th Leg., R.S., Ch. 719, Secs.  
14 4 (part), 16 (part).)

15 Source Law

16 Sec. 4. . . . the District shall and is hereby  
17 empowered to exercise the following powers, privileges  
18 and functions:

19 (1) To control, store, preserve and distribute  
20 its waters and flood waters, the waters of its rivers  
21 and streams, for all useful purposes and to accomplish  
22 these ends by all practicable means including the  
23 construction, maintenance and operation of all  
24 appropriate improvements, plants, works and  
25 facilities, the acquisition of water rights and all  
26 other properties, lands, tenements, easements and all  
27 other rights necessary to the purpose of the  
28 organization of the District.

29 (2) To process and store such waters and  
30 distribute same for municipal, domestic, irrigation  
31 and industrial purposes, subject to the requirements  
32 of Chapter 1, Title 128, Revised Civil Statutes of  
33 Texas, 1925, as amended. . . .

34 Sec. 16. . . . The District is also empowered  
35 to purchase or make contracts for the purchase of water  
36 or a water supply from any person or firm, corporation,  
37 or public agency, or from the United States Government  
38 or from any of its agencies.

39 Revisor's Note

40 (1) Section 4(2), Chapter 719, Acts of the 59th  
41 Legislature, Regular Session, 1965, refers to "Chapter  
42 1, Title 128, Revised Civil Statutes of Texas, 1925, as  
43 amended." The pertinent parts of Chapter 1, Title  
44 128, Revised Statutes, were codified as Subchapters

1 A-D, Chapter 11, and Subchapter B, Chapter 12, Water  
2 Code, by Section 1, Chapter 58, Acts of the 62nd  
3 Legislature, Regular Session, 1971, and Section 1,  
4 Chapter 870, Acts of the 65th Legislature, Regular  
5 Session, 1977, and the revised law is drafted  
6 accordingly.

7 (2) Section 16, Chapter 719, Acts of the 59th  
8 Legislature, Regular Session, 1965, provides that the  
9 district may purchase water from "any person or firm,  
10 corporation, or public agency, or from the United  
11 States Government or from any of its agencies." The  
12 revised law substitutes "any person" for the quoted  
13 language because Section 311.005(2), Government Code  
14 (Code Construction Act), defines "person" to include  
15 any legal entity.

16 Revised Law

17 Sec. 9092.0303. CONTRACTS TO SUPPLY WATER SERVICES AND  
18 OPERATE FACILITIES. (a) The district may contract with a  
19 municipality or others to supply water services to them.

20 (b) The district may contract with a municipality for the  
21 rental or leasing of or for the operation of the municipality's  
22 water production, water supply, water filtration, or purification  
23 and water supply facilities.

24 (c) A contract entered into under this section may:

25 (1) be on the terms, for the consideration, and for the  
26 time agreed to by the parties; and

27 (2) provide that the contract will continue in effect  
28 until bonds specified in the contract and any refunding bonds  
29 issued in lieu of the bonds are paid. (Acts 59th Leg., R.S., Ch.  
30 719, Sec. 15.)

31 Source Law

32 Sec. 15. The District is authorized to enter  
33 into contracts with cities and others for supplying  
34 water services to them. The District may also contract  
35 with any city for the rental or leasing, or for the  
36 operation of such city's water production, water

1 supply, water filtration, or purification and water  
2 supply facilities. Any such contract may be upon such  
3 terms, for such consideration and for such time as the  
4 parties may agree and it may provide that it shall  
5 continue in effect until bonds specified therein and  
6 any refunding bonds issued in lieu of such bonds are  
7 paid.

8 Revisor's Note

9 Section 15, Chapter 719, Acts of the 59th  
10 Legislature, Regular Session, 1965, refers to a "city"  
11 and "cities." The revised law substitutes  
12 "municipality" for those terms because the terms have  
13 the same meaning and "municipality" is the term used in  
14 the Local Government Code.

15 Revised Law

16 Sec. 9092.0304. ACQUISITION OF WATER STORAGE AND STORAGE  
17 CAPACITY. The district may lease or acquire rights in and to  
18 storage and storage capacity in any reservoir constructed or to be  
19 constructed by any person, or from the United States. (Acts 59th  
20 Leg., R.S., Ch. 719, Sec. 16 (part).)

21 Source Law

22 Sec. 16. The District is hereby empowered to  
23 lease or acquire rights in and to storage and storage  
24 capacity in any reservoir constructed or to be  
25 constructed by any person, firm, corporation or public  
26 agency, or from the United States Government or any of  
27 its agencies. . . .

28 Revisor's Note

29 (1) Section 16, Chapter 719, Acts of the 59th  
30 Legislature, Regular Session, 1965, refers to any  
31 "person, firm, corporation or public agency." The  
32 revised law substitutes "person" for the quoted  
33 language for the reason stated in Revisor's Note (2) to  
34 Section 9092.0302.

35 (2) Section 16, Chapter 719, Acts of the 59th  
36 Legislature, Regular Session, 1965, refers to the  
37 United States government or "any of its agencies." The  
38 revised law omits the quoted language because Section  
39 311.005(9), Government Code (Code Construction Act),  
40 defines the United States to include its agencies.

1 Revised Law

2 Sec. 9092.0305. SURVEYS AND INVESTIGATIONS. The district  
3 may conduct a survey or an engineering investigation to provide  
4 information for the district to facilitate the accomplishment of a  
5 district purpose. (Acts 59th Leg., R.S., Ch. 719, Sec. 4 (part).)

6 Source Law

7 Sec. 4. . . . the District shall and is hereby  
8 empowered to exercise the following powers, privileges  
9 and functions:

10 . . .  
11 (5) To make or cause to be made surveys and  
12 engineering investigations for the information of the  
13 District to facilitate the accomplishment of its  
14 purposes and . . . .

15 Revisor's Note

16 Section 4, Chapter 719, Acts of the 59th  
17 Legislature, Regular Session, 1965, provides that the  
18 district may "make or cause to be made" certain surveys  
19 and engineering investigations. The revised law  
20 omits the quoted language as unnecessary because the  
21 grant of a power implies the authority to provide for  
22 the exercise of that power.

23 Revised Law

24 Sec. 9092.0306. DISPOSAL OR LEASE OF PROPERTY. (a) The  
25 district may dispose of property or a property right that is not  
26 needed for a purpose for which the district is created.

27 (b) The district may lease property or a property right for  
28 a purpose that does not interfere with the use of district property.  
29 (Acts 59th Leg., R.S., Ch. 719, Sec. 4 (part).)

30 Source Law

31 Sec. 4. . . . the District shall and is hereby  
32 empowered to exercise the following powers, privileges  
33 and functions:

34 . . .  
35 (3) To dispose of property or rights therein  
36 when the same are no longer needed for the purposes for  
37 which the District is created or to lease same for  
38 purposes which will not interfere with the use of the  
39 property of the District.  
40 . . .

41 Revised Law

42 Sec. 9092.0307. ACQUISITION OF PROPERTY; EMINENT DOMAIN.

1 (a) The district, by gift, device, purchase, lease, or  
2 condemnation, may acquire land, an easement, right-of-way, or other  
3 property in or outside the district that is incident to or necessary  
4 in carrying out a district purpose.

5 (b) The district may exercise the power of eminent  
6 domain. Procedures with reference to condemnation, the assessment  
7 and estimation of damages, payment, appeal, and entrance on  
8 property pending appeal, and other procedures prescribed by Chapter  
9 21, Property Code, apply to the district.

10 (c) The district's authority under this section to exercise  
11 the power of eminent domain expired on September 1, 2013, unless the  
12 district submitted a letter to the comptroller in accordance with  
13 Section 2206.101(b), Government Code, not later than December 31,  
14 2012. (Acts 59th Leg., R.S., Ch. 719, Sec. 4 (part); New.)

15 Source Law

16 Sec. 4. . . . the District shall and is hereby  
17 empowered to exercise the following powers, privileges  
18 and functions:

19 . . .  
20 (6) [To exercise all functions to permit the  
21 accomplishment of its purposes] including the  
22 acquisition within or without said District of land,  
23 easements, and rights-of-way and any other character  
24 of property incident to, or necessary in carrying out  
25 the purposes and work of the District by way of gift,  
26 device, purchase, leasehold or condemnation. The right  
27 of eminent domain is hereby expressly conferred on  
28 said District and the procedure with reference to  
29 condemnation, the assessment of and estimating of  
30 damages, payment, appeal, the entering upon the  
31 property pending appeal and other procedures  
32 prescribed in Title 52 of the Revised Civil Statutes of  
33 Texas, 1925, as heretofore or hereafter amended, shall  
34 apply to said District. . . .

35 Revisor's Note

36 (1) Section 4(6), Chapter 719, Acts of the 59th  
37 Legislature, Regular Session, 1965, provides that  
38 "[t]he right of eminent domain is hereby expressly  
39 conferred on said District." The revised law  
40 substitutes for the quoted language a statement that  
41 the district "may exercise the power of eminent  
42 domain" because the phrases have the same meaning and  
43 the latter is consistent with modern usage in laws

1 relating to eminent domain.

2 (2) Section 4(6), Chapter 719, Acts of the 59th  
3 Legislature, Regular Session, 1965, provides that  
4 certain procedures prescribed in "Title 52 of the  
5 Revised Civil Statutes of Texas, 1925, as heretofore  
6 or hereafter amended," apply to the district. That  
7 statute was codified in 1983 as Chapter 21, Property  
8 Code. The revised law is drafted accordingly. The  
9 revised law omits the reference to "as heretofore or  
10 hereafter amended" because under Section 311.027,  
11 Government Code (Code Construction Act), a reference  
12 to a statute applies to all reenactments, revisions,  
13 or amendments of that statute unless expressly  
14 provided otherwise.

15 (3) Section 4(6), Chapter 719, Acts of the 59th  
16 Legislature, Regular Session, 1965, provided the  
17 district eminent domain authority. Section 2206.101,  
18 Government Code, required an entity with eminent  
19 domain authority to submit a letter with certain  
20 information to the comptroller not later than December  
21 31, 2012, to prevent the entity's eminent domain  
22 authority from expiring on September 1, 2013. To avoid  
23 the appearance that this revision recognizes authority  
24 that the district may not possess at the time of the  
25 revision, the revised law includes a provision setting  
26 out the requirements of Section 2206.101, Government  
27 Code.

28 Revised Law

29 Sec. 9092.0308. COST OF RELOCATING OR ALTERING PROPERTY.

30 (a) If the district's exercise of the power of eminent domain, the  
31 power of relocation, or any other power granted by this chapter  
32 makes necessary taking property or relocating, raising, rerouting,  
33 changing the grade of, or altering the construction of a highway,  
34 railroad, electric transmission line, telephone or telegraph



1 property or facility, or pipeline, the necessary action shall be  
2 accomplished at the district's expense.

3 (b) The district's duty to pay under this section is limited  
4 to the actual cost, without enhancement, of the property taken or  
5 work required, after deducting any net salvage value derived from  
6 property taken. (Acts 59th Leg., R.S., Ch. 719, Sec. 4 (part).)

7 Source Law

8 Sec. 4. . . . the District shall and is hereby  
9 empowered to exercise the following powers, privileges  
10 and functions:

11 . . .  
12 (6) . . . In the event the District, in the  
13 exercise of the power of eminent domain or power of  
14 relocation, or any other power granted hereunder makes  
15 necessary the taking of any property or the  
16 relocation, raising, re-routing or changing the grade,  
17 or altering the construction of any highway, railroad,  
18 electric transmission line, telephone or telegraph  
19 properties and facilities, or pipeline, all such  
20 necessary taking, relocation, raising, re-routing,  
21 changing of grade or alteration of construction shall  
22 be accomplished at the expense of the District. It is  
23 provided, however, that the expense of the District  
24 shall be strictly confined to that amount which is  
25 equal to the actual cost of the property taken or work  
26 required without enhancement thereof and after  
27 deducting the net salvage value which may be derived  
28 from any property taken.

29 . . .

30 Revised Law

31 Sec. 9092.0309. ARRANGEMENTS WITH STATE AND UNITED STATES.  
32 The district may cooperate or contract with this state, including a  
33 state agency, or the United States to exercise a district power or  
34 further a district purpose and to receive a grant, a loan, or an  
35 advancement from this state or the United States for those  
36 purposes. (Acts 59th Leg., R.S., Ch. 719, Sec. 4 (part).)

37 Source Law

38 Sec. 4. . . . the District shall and is hereby  
39 empowered to exercise the following powers, privileges  
40 and functions:

41 . . .  
42 (4) To cooperate with and contract with the  
43 State of Texas, the United States of America, or with  
44 any of their departments or agencies now existing, or  
45 which may hereafter be created, to carry out any of the  
46 powers or to further any of the purposes of the  
47 District and, for such purposes, to receive grants,  
48 loans or advancements therefrom.

49 . . .

1 Revisor's Note

2 Section 4(4), Chapter 719, Acts of the 59th  
3 Legislature, Regular Session, 1965, refers to this  
4 state and the United States or any of their departments  
5 or agencies, including departments or agencies created  
6 after the enactment of Section 4(4). The revised law  
7 omits the reference to departments as it relates to  
8 this state because, in context, the meaning of the term  
9 is included in "agency." The revised law omits the  
10 reference to departments and agencies as it relates to  
11 the United States for the reason stated in Revisor's  
12 Note (2) to Section 9092.0304.

13 Revised Law

14 Sec. 9092.0310. AWARDING OF CONTRACTS. For a contract  
15 awarded on or after September 1, 1995, the district shall comply  
16 with the requirements of Section 49.273, Water Code, when awarding  
17 the contract. (Acts 59th Leg., R.S., Ch. 719, Sec. 5; Acts 72nd  
18 Leg., R.S., Ch. 59, Sec. 2.)

19 Source Law

20 [Acts 59th Leg., R.S., Ch. 719]

21 Sec. 5. The District shall comply with the  
22 requirements of Section 50.061, Water Code, when  
23 awarding a contract.

24 [Acts 72nd Leg., R.S., Ch. 59]

25 Sec. 2. The change in law made by this Act  
26 applies only to contracts awarded by the Franklin  
27 County Water District on or after the effective date of  
28 this Act. A contract awarded before the effective date  
29 of this Act is governed by the law in effect at the time  
30 the contract was awarded, and the former law is  
31 continued in effect for that purpose.

32 Revisor's Note

33 Section 5, Chapter 719, Acts of the 59th  
34 Legislature, Regular Session, 1965, was amended by  
35 Section 1, Chapter 59, Acts of the 72nd Legislature,  
36 Regular Session, 1991, to require the district to  
37 comply with Section 50.061, Water Code. Section 2,  
38 Chapter 59, Acts of the 72nd Legislature, Regular  
39 Session, 1991, provides that Section 50.061, Water

1 Code, applies only to contracts awarded by the  
2 district on or after September 1, 1991.

3 Chapter 715, Acts of the 74th Legislature,  
4 Regular Session, 1995, repealed Section 50.061, Water  
5 Code, and enacted Section 49.273, Water Code, to  
6 govern matters previously governed by the repealed  
7 section. Accordingly, the revised law substitutes a  
8 reference to Section 49.273, Water Code, for the  
9 reference to Section 50.061, Water Code, and adds a  
10 reference to the effective date of Section 49.273  
11 (September 1, 1995).

12 The substitution does not affect the prior  
13 operation of the former Section 50.061, Water Code,  
14 regarding district contracts awarded on or after  
15 September 1, 1991, and before September 1, 1995.  
16 Section 311.031(a)(2), Government Code (Code  
17 Construction Act), provides that the reenactment,  
18 revision, amendment, or repeal of a statute does not  
19 affect the prior operation of the statute or any prior  
20 action taken under it.

21 Revised Law

22 Sec. 9092.0311. POWER TO QUALIFY FOR BENEFITS UNDER OTHER  
23 LAW. The district has the power necessary to fully qualify for and  
24 gain the benefits of all laws that are helpful in carrying out the  
25 purposes for which the district is created. (Acts 59th Leg., R.S.,  
26 Ch. 719, Sec. 4 (part).)

27 Source Law

28 Sec. 4. . . . It is further the intention of  
29 the Legislature that the District herein created shall  
30 have all the power and authority necessary to fully  
31 qualify and gain the benefits of any and all laws which  
32 are in any wise helpful in carrying out the purposes  
33 for which the District is created and . . . .

34 Revisor's Note

35 (1) Section 4, Chapter 719, Acts of the 59th  
36 Legislature, Regular Session, 1965, provides that

1 "[i]t is further the intention of the Legislature that  
2 the District herein created" shall have certain  
3 powers. The revised law omits the quoted language as  
4 unnecessary because it is implied that a statute  
5 expresses the intent of the legislature and also  
6 because the creation of the district has already been  
7 accomplished.

8 (2) Section 4, Chapter 719, Acts of the 59th  
9 Legislature, Regular Session, 1965, provides that the  
10 district has the "power and authority" necessary to  
11 fully qualify for and gain certain benefits.  
12 Throughout this chapter, the revised law omits  
13 "authority" because, in this context, "authority" is  
14 included in the meaning of "power."

15 (3) Section 4, Chapter 719, Acts of the 59th  
16 Legislature, Regular Session, 1965, provides that  
17 certain laws of which the district may lawfully avail  
18 itself are adopted by reference and made applicable to  
19 the district. The revised law omits that provision as  
20 unnecessary because a law of which the district may  
21 lawfully avail itself applies to the district on its  
22 own terms without needing to be adopted or made  
23 applicable by reference under any additional law. The  
24 omitted law reads:

25 Sec. 4. . . . the provisions of all  
26 such laws of which the District may lawfully  
27 avail itself are hereby adopted by this  
28 reference and made applicable to the  
29 District.  
30 . . .

31 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

32 Revised Law

33 Sec. 9092.0401. TAX METHOD. The district shall use the ad  
34 valorem plan of taxation. (Acts 59th Leg., R.S., Ch. 719, Sec. 2  
35 (part).)



1 to elections for the authorization of bonds. . . . In  
2 calling an election for taxes under this Section 11,  
3 the Board of Directors shall specify the maximum rate  
4 of tax which is sought to be levied and no tax in excess  
5 of that amount may be levied without submitting the  
6 question of the increased rate of taxation at an  
7 election as provided.

8 Revisor's Note

9 (1) Section 11, Chapter 719, Acts of the 59th  
10 Legislature, Regular Session, 1965, provides that the  
11 district may impose taxes if authorized by "a  
12 favorable majority vote of the qualified property  
13 taxpaying voters of the District, voting at an  
14 election held for the purpose within the boundaries of  
15 such District." The revised law substitutes a  
16 reference to Section 49.107, Water Code, parts of  
17 which duplicate, in substance, provisions of Section  
18 11. Section 49.107 provides that a district may impose  
19 a tax for operation and maintenance purposes if the tax  
20 is approved by a majority of the electors voting at an  
21 election held for that purpose.

22 To the extent that Section 11 limits the election  
23 to "qualified" voters, the revised law omits the  
24 requirement as unnecessary in this context because  
25 Chapter 11, Election Code, governs eligibility to vote  
26 in an election in this state and allows only  
27 "qualified" voters to vote in an election.

28 To the extent that Section 11 purports to limit  
29 participation in the election to "property taxpaying  
30 voters," the revised law omits the requirement because  
31 in Hill v. Stone, 421 U.S. 289 (1975), the United  
32 States Supreme Court determined that property  
33 ownership as a qualification for voting is an  
34 unconstitutional denial of equal protection.

35 (2) Section 11, Chapter 719, Acts of the 59th  
36 Legislature, Regular Session, 1965, authorizes the  
37 district to "levy, assess and collect annual taxes" to

1 provide "funds" necessary or adequate to pay costs  
2 associated with certain district purposes, and refers  
3 to the maximum amount of a tax that may "be levied" by  
4 the district. The revised law substitutes "impose"  
5 for the references to the levy, assessment, and  
6 collection of taxes because "impose" is the term  
7 generally used in Title 1, Tax Code, and includes the  
8 levy, assessment, and collection of an ad valorem tax.  
9 The revised law specifies that the tax is an ad valorem  
10 tax because in context it is clear that the tax is a  
11 property tax, and "ad valorem" tax is the term most  
12 commonly used in Texas law to refer to a tax on  
13 property. Throughout this chapter, the revised law  
14 substitutes "money" for "funds" because, in context,  
15 the terms have the same meaning and "money" is more  
16 commonly used.

17 (3) Section 11, Chapter 719, Acts of the 59th  
18 Legislature, Regular Session, 1965, provides that  
19 taxes levied by the district constitute a lien on the  
20 property against which they are levied and that a  
21 limitation does not bar the collection or enforcement  
22 of those taxes. The revised law omits the provision to  
23 the effect that taxes imposed by the district  
24 constitute a lien on the property taxed because it  
25 duplicates, in substance, Section 32.01, Tax Code,  
26 which provides that a tax lien attaches to property to  
27 secure the payment of all taxes, penalties, and  
28 interest imposed on the property. The revised law  
29 omits the provision to the effect that a limitation  
30 does not bar the enforcement or collection of those  
31 taxes because it was repealed by Section 6(b), Chapter  
32 841, Acts of the 66th Legislature, Regular Session,  
33 1979, which repealed all "general, local, and special  
34 laws" that conflicted with that act. The 1979 act

1 enacted the Property Tax Code (Title 1, Tax Code), a  
2 comprehensive, substantive codification of the laws  
3 governing the administration of ad valorem taxes.  
4 Section 33.05, Tax Code, provides for a statute of  
5 limitations on suits to collect delinquent taxes.  
6 Sections 32.01 and 33.05, Tax Code, apply to the  
7 district under Section 1.02, Tax Code. The omitted law  
8 reads:

9                   Sec. 11. . . . All taxes levied by  
10 the District for any purpose shall  
11 constitute a lien on the property against  
12 which levied and limitation shall not bar  
13 the enforcement or collection  
14 thereof. . . .

15           (4) Section 11, Chapter 719, Acts of the 59th  
16 Legislature, Regular Session, 1965, refers to the  
17 "calling" of a tax election by the board. The revised  
18 law substitutes "ordering" for "calling" because  
19 "order" is the term used in Chapter 3, Election Code.

20                                   Revised Law

21           Sec. 9092.0403. DEPOSITORY. (a) The board shall designate  
22 one or more banks in the district to serve as a depository for the  
23 district's money.

24           (b) District money shall be deposited in a designated  
25 depository, except that sufficient money shall be remitted to the  
26 bank or banks of payment to pay the principal of and interest on the  
27 district's outstanding bonds on or before the maturity date of the  
28 principal and interest.

29           (c) Membership of a bank officer or director on the board  
30 does not disqualify the bank from being designated as a depository.  
31 (Acts 59th Leg., R.S., Ch. 719, Sec. 13 (part).)

32                                   Source Law

33           Sec. 13. The Board of Directors shall designate  
34 one or more banks within the District to serve as  
35 depository for the funds of the District. All funds of  
36 the District shall be deposited in such depository  
37 bank or banks except that sufficient funds shall be  
38 remitted to the bank or banks of payment of principal  
39 of and interest on the outstanding bonds of the  
40 District and in time that such may be received by the



1 said bank or banks of payment on or prior to the date of  
2 the maturity of such principal and interest so to be  
3 paid. . . . Membership on the Board of Directors of  
4 an officer or director of a bank shall not disqualify  
5 such bank from being designated as depository.

6 Revisor's Note

7 Section 13, Chapter 719, Acts of the 59th  
8 Legislature, Regular Session, 1965, requires a bank to  
9 secure district money deposited at the bank in the  
10 manner provided by law for the security of county  
11 money, to the extent that the district money deposited  
12 is not insured by the Federal Deposit Insurance  
13 Corporation. The revised law omits that provision  
14 because it duplicates, in substance, Sections 2257.021  
15 and 2257.022, Government Code, which establish the  
16 amount and manner of security required for a deposit of  
17 public funds. Those sections apply to the security for  
18 district money under Sections 2257.002 and 2257.004,  
19 Government Code. The omitted law reads:

20 Sec. 13. . . . To the extent that  
21 funds in the depository bank or banks are  
22 not insured by the Federal Deposit  
23 Insurance Corporation, they shall be  
24 secured in the manner provided by law for  
25 the security of county funds. . . .

26 Revised Law

27 Sec. 9092.0404. FORM OF RECORDS AND ACCOUNTS. District  
28 records and accounts must conform to approved methods of  
29 bookkeeping. (Acts 59th Leg., R.S., Ch. 719, Sec. 3(h) (part).)

30 Source Law

31 (h) . . . All records and accounts shall  
32 conform to approved methods of bookkeeping. . . .

33 Revised Law

34 Sec. 9092.0405. AUDIT REPORT. (a) The audit report  
35 prepared under Subchapter G, Chapter 49, Water Code, shall be  
36 submitted at the first regular board meeting after the audit is  
37 completed.

38 (b) A copy of the audit report shall be filed:

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



1 filing of the report.

2 The revised law omits the requirement that a copy  
3 of the audit report be filed at the district's office  
4 because it is superseded by or duplicates Section  
5 49.194(c), Water Code.

6 (2) Section 3(h), Chapter 719, Acts of the 59th  
7 Legislature, Regular Session, 1965, requires copies of  
8 the audit report filed with the district's office, the  
9 district's depository, and the auditor to be open to  
10 public inspection. The revised law adds a reference to  
11 the requirement in Section 49.196, Water Code, that  
12 district fiscal records be open to public inspection  
13 because that section requires that the records be open  
14 to public inspection during regular business hours.

15 (3) Section 3(h), Chapter 719, Acts of the 59th  
16 Legislature, Regular Session, 1965, provides that the  
17 board shall cause a financial audit to be completed  
18 after the end of each calendar year. The revised law  
19 omits that provision as superseded by Sections  
20 49.191(a) and (d), Water Code, which require an annual  
21 audit to be completed within 120 days after the close  
22 of the district's fiscal year. The omitted law reads:

23 (h) . . . The Board shall cause to be  
24 made and completed annually, as soon as  
25 practicable after the expiration of each  
26 calendar year, an audit of the books of  
27 account and financial records of the  
28 District for such calendar year, . . . .

29 (4) Section 3(h), Chapter 719, Acts of the 59th  
30 Legislature, Regular Session, 1965, provides that the  
31 district audit shall be prepared by a public  
32 accountant or firm of public accountants. The revised  
33 law omits that provision as superseded by Section  
34 49.191(c), Water Code, which provides that the person  
35 who performs the audit shall be a certified public  
36 accountant or public accountant holding a permit from

1 the Texas State Board of Public Accountancy. The  
2 omitted law reads:

3 (h) . . . such audit to be made by an  
4 individual public accountant or firm of  
5 public accountants. . . .

6 (5) Section 3(h), Chapter 719, Acts of the 59th  
7 Legislature, Regular Session, 1965, requires that  
8 additional copies of the district audit report be  
9 filed with state or governmental agencies as may be  
10 required by law. The revised law omits that provision  
11 as unnecessary because a law that requires the filing  
12 of additional copies of the audit report with those  
13 agencies would apply on its own terms. The omitted law  
14 reads:

15 (h) . . . Additional copies of said  
16 report shall be filed with any State or  
17 governmental agencies as may be required by  
18 law.

19 Revised Law

20 Sec. 9092.0406. PAYMENT OF TAX OR ASSESSMENT NOT REQUIRED.  
21 The district is not required to pay a tax or assessment on a  
22 district project or any part of the project. (Acts 59th Leg., R.S.,  
23 Ch. 719, Sec. 14 (part).)

24 Source Law

25 Sec. 14. [The accomplishment of the purposes  
26 stated in this Act being for the benefit of the people  
27 of this State and for the improvement of their  
28 properties and the industries, the District in  
29 carrying out the purposes of this Act will be  
30 performing an essential public function under the  
31 Constitution and] shall not be required to pay any tax  
32 or assessment on the project or any part thereof, and  
33 . . . .

34 SUBCHAPTER E. BORROWED MONEY; BONDS

35 Revised Law

36 Sec. 9092.0501. AUTHORITY TO BORROW MONEY AND ISSUE BONDS.  
37 The district may borrow money and issue bonds to carry out any power  
38 conferred by this chapter, including to provide money to purchase  
39 or otherwise provide works, plants, facilities, or appliances  
40 necessary to accomplish the purposes authorized by this chapter.

1 (Acts 59th Leg., R.S., Ch. 719, Sec. 6(a) (part).)

2 Source Law

3 Sec. 6. (a) For the purpose of providing funds  
4 for purchasing or otherwise providing works, plants,  
5 facilities or appliances necessary to the  
6 accomplishment of the purposes authorized by this Act,  
7 and for the purpose of carrying out any other power or  
8 authority conferred by this Act, the District is  
9 hereby empowered to borrow money and issue its  
10 negotiable bonds . . . .

11 Revisor's Note

12 (1) Section 6(a), Chapter 719, Acts of the 59th  
13 Legislature, Regular Session, 1965, authorizes the  
14 district to issue "negotiable" bonds. The revised law  
15 omits the reference to "negotiable" bonds because  
16 Section 1201.041, Government Code, provides that a  
17 public security is a negotiable instrument.  
18 Throughout this chapter, the revised law omits law  
19 that is superseded by or duplicates law in Chapter  
20 1201, Government Code, which applies to district bonds  
21 under Sections 1201.002 and 1201.003 of that code.

22 (2) Section 6(b), Chapter 719, Acts of the 59th  
23 Legislature, Regular Session, 1965, provides that  
24 district bonds may be issued "in one or more than one  
25 series, and from time to time, as required for carrying  
26 out the purposes of this Act." The revised law omits  
27 "in one or more than one series" because it duplicates  
28 Section 1201.022(a)(1), Government Code. The revised  
29 law omits "from time to time" because the power to take  
30 an action implies the power to take the action any  
31 time. The revised law omits "as required for carrying  
32 out the purposes of this Act" because Section 6(a),  
33 Chapter 719, Acts of the 59th Legislature, Regular  
34 Session, 1965, revised in this section, authorizes the  
35 district to issue bonds to carry out any power  
36 conferred by the act. The omitted law reads:

37 (b) Bonds may be issued in one or more  
38 than one series, and from time to time, as

1 required for carrying out the purposes of  
2 this Act.

3 Revised Law

4 Sec. 9092.0502. FORM OF BONDS. District bonds must be:

5 (1) issued in the district's name;

6 (2) signed by the president; and

7 (3) attested by the secretary. (Acts 59th Leg., R.S.,  
8 Ch. 719, Sec. 6(a) (part).)

9 Source Law

10 (a) . . . Such bonds shall be issued in the name  
11 of the District, signed by the President, attested by  
12 the Secretary, and . . . .

13 Revisor's Note

14 Section 6(a), Chapter 719, Acts of the 59th  
15 Legislature, Regular Session, 1965, provides that  
16 district bonds must bear the district's seal and  
17 authorizes "printed or lithographed" signatures and  
18 seals. The revised law omits those provisions as  
19 unnecessary. The requirement that the bonds bear the  
20 district's seal was impliedly repealed by Section 3,  
21 Bond Procedures Act of 1981 (Article 717k-6, Vernon's  
22 Texas Civil Statutes), revised in pertinent part in  
23 1999 as Section 1201.026(a), Government Code, which  
24 provides that bonds may be signed with or without a  
25 seal. The authorization for the use of printed or  
26 lithographed signatures duplicates, in substance,  
27 Section 1201.026(a), Government Code, which also  
28 provides that bonds and interest coupons may be signed  
29 or otherwise executed with manual or facsimile  
30 signatures. The omitted law reads:

31 (a) . . . [Such bonds] . . . shall  
32 bear the seal of the District. It is  
33 provided, however, that the signatures of  
34 the President or Secretary, or of both, may  
35 be printed or lithographed on the bonds  
36 authorized by the Board of Directors and  
37 that the seal of the District may be  
38 impressed on the bonds or may be printed or  
39 lithographed thereon, if so  
40 authorized. . . .



- 1 (3) the maximum amount of the bonds;
- 2 (4) the maximum interest rate of the bonds;
- 3 (5) the maximum maturity of the bonds;
- 4 (6) the form of the ballot; and
- 5 (7) the presiding judge for each polling place.

6 (c) Notice of the election must be given by publishing a  
7 substantial copy of the election order in a newspaper of general  
8 circulation in the district once each week for at least four  
9 consecutive weeks. The first publication must be not later than 28  
10 days before the election date.

11 (d) If an election to issue bonds under this section fails,  
12 the board may not order an election under this section for a period  
13 of six months.

14 (e) The district may issue without an election bonds not  
15 payable wholly or partly from ad valorem taxes. (Acts 59th Leg.,  
16 R.S., Ch. 719, Secs. 9(a), (b) (part).)

17 Source Law

18 Sec. 9. (a) No bonds payable wholly or  
19 partially from ad valorem taxes (except refunding  
20 bonds) shall be issued unless authorized at an  
21 election at which only the qualified voters, who  
22 reside in the District and own taxable property  
23 therein and have duly rendered the same for taxation,  
24 are permitted to vote, and unless a majority of such  
25 votes cast is in favor of the issuance of the bonds.  
26 Bonds not payable wholly or partially from ad valorem  
27 taxes may be issued without an election.

28 (b) Such bond elections may be called by the  
29 Board of Directors without a petition. The resolution  
30 calling the election shall specify the time and place  
31 or places of holding the same, the purpose for which  
32 the bonds are to be issued, the maximum amount thereof,  
33 the maximum interest rate, the maximum maturity  
34 thereof, the form of the ballot, and the presiding  
35 judge for each voting place. . . . Notice of election  
36 for the issuance of bonds shall be given by publication  
37 of a substantial copy of the resolution calling the  
38 election in a newspaper of general circulation in the  
39 District once each week for at least four (4)  
40 consecutive weeks, the first publication to appear not  
41 less than twenty-eight (28) days prior to the date  
42 assigned for the election. . . . In the event a bond  
43 issue election fails, another bond election shall not  
44 be called for a period of six (6) months.

45 Revisor's Note

46 (1) Section 9(a), Chapter 719, Acts of the 59th  
47 Legislature, Regular Session, 1965, provides that



1 qualified voters who reside in and own property in the  
2 district are permitted to vote in elections for bonds  
3 payable from ad valorem taxes. The revised law omits  
4 that provision for the reason stated in Revisor's Note  
5 (2) to Section 9092.0201 and Revisor's Note (1) to  
6 Section 9092.0402.

7 (2) Section 9(b), Chapter 719, Acts of the 59th  
8 Legislature, Regular Session, refers to the "calling"  
9 of a bond election by resolution. The revised law  
10 substitutes "order" for references to the calling of a  
11 bond election for the reason stated in Revisor's Note  
12 (4) to Section 9092.0402.

13 (3) Section 9(b), Chapter 719, Acts of the 59th  
14 Legislature, Regular Session, 1965, refers to a  
15 "voting place." The revised law substitutes "polling  
16 place" for "voting place" because "polling place" is  
17 the term used in the Election Code.

18 (4) Section 9(b), Chapter 719, Acts of the 59th  
19 Legislature, Regular Session, 1965, provides for the  
20 appointment of an assistant judge and clerks to assist  
21 in holding a bond election. The revised law omits that  
22 provision as superseded by Chapter 32, Election Code,  
23 which governs the selection of election judges and  
24 clerks. See Revisor's Note (1) to Section 9092.0203 for  
25 an explanation of the revision of similar language in  
26 the context of a director election. The director  
27 election laws in Chapter 719 were amended in 1997  
28 (Chapter 3, Acts of the 75th Legislature, Regular  
29 Session, 1997) in a manner that superseded the  
30 relevant portion of Chapter 32, Election Code. The  
31 bond election laws in Chapter 719 were not similarly  
32 amended in 1997. The omitted law reads:

33 (b) . . . The presiding judge  
34 serving at each voting place shall appoint  
35 one (1) assistant judge and at least two (2)

1 clerks to assist in holding such election.  
2 . . .

3 (5) Section 9(b), Chapter 719, Acts of the 59th  
4 Legislature, Regular Session, 1965, provides that the  
5 board shall receive and canvass election returns. The  
6 revised law omits that provision for the reason stated  
7 by Revisor's Note (5) at the end of Subchapter B. The  
8 omitted law reads:

9 (b) . . . The returns of the  
10 election shall be made to and canvassed by  
11 the Board of Directors of the  
12 District. . . .

13 (6) Section 9(b), Chapter 719, Acts of the 59th  
14 Legislature, Regular Session, 1965, provides that the  
15 general laws relating to elections apply to an  
16 election under that section except as "herein  
17 otherwise provided." The revised law omits that  
18 provision because Section 1.002, Election Code,  
19 provides that the Election Code applies to all  
20 elections in this state. An exception to the  
21 application of the Election Code to a district bond  
22 election would apply by its own terms. The omitted law  
23 reads:

24 (b) . . . Except as herein otherwise  
25 provided, the General Laws relating to  
26 elections shall be applicable. . . .

27 Revised Law

28 Sec. 9092.0505. BONDS PAYABLE FROM REVENUE. (a) In this  
29 section, "net revenue" means the district's gross revenue less the  
30 amount necessary to pay the reasonable cost of maintaining and  
31 operating the district and the district's property.

32 (b) The board may issue bonds payable, as pledged by board  
33 resolution, from:

- 34 (1) all or part of the district's net revenue;  
35 (2) the net revenue of one or more contracts made  
36 before or after the issuance of the bonds; or  
37 (3) other revenue or income specified by board

1 resolution or in the trust indenture.

2 (c) The pledge may reserve the right to issue additional  
3 bonds on a parity with, or subordinate to, the bonds being issued,  
4 subject to conditions specified by the pledge. (Acts 59th Leg.,  
5 R.S., Ch. 719, Secs. 6(a) (part), (c).)

6 Source Law

7 (a) . . . [the District is hereby empowered to  
8 . . . issue] . . . bonds to be payable from . . .  
9 revenues or . . . of the District, as are pledged by  
10 resolution of the Board of Directors. . . .

11 (c) The bonds may be secured by a pledge of all  
12 or part of the net revenues of the District, or by the  
13 net revenues of any one or more contracts theretofore  
14 or thereafter made or other revenues and income  
15 specified by the resolution of the Board of Directors  
16 or in the trust indenture. Any such pledge may reserve  
17 the right, under conditions therein specified, to  
18 issue additional bonds which would be on a parity with  
19 or subordinate to the bonds then being issued. The  
20 term "net revenues" as used in this Section shall mean  
21 the gross revenues of the District after deduction of  
22 the amount necessary to pay the reasonable cost of  
23 maintaining and operating the District and its  
24 properties.

25 Revised Law

26 Sec. 9092.0506. BONDS PAYABLE FROM AD VALOREM TAXES. The  
27 board may issue bonds payable, as pledged by board resolution,  
28 from:

- 29 (1) ad valorem taxes of the district; or  
30 (2) ad valorem taxes and revenue of the district.

31 (Acts 59th Leg., R.S., Ch. 719, Sec. 6(a) (part).)

32 Source Law

33 (a) . . . [the District is hereby empowered to  
34 . . . issue] . . . bonds to be payable from ad valorem  
35 taxes or . . . both taxes and revenues of the District,  
36 as are pledged by resolution of the Board of Directors.  
37 . . .

38 Revised Law

39 Sec. 9092.0507. TAX AND RATE REQUIREMENTS. (a) If the  
40 district issues bonds payable wholly or partly from ad valorem  
41 taxes, the board shall impose an ad valorem tax sufficient to pay  
42 the bonds and the interest on the bonds as the bonds and interest  
43 become due. The board shall take into consideration reasonable  
44 delinquencies and collection costs in imposing the ad valorem tax.

1 The board may adopt the tax rate for any year after considering the  
2 money reasonably to be received from the pledged revenue available  
3 for payment of principal and interest and to the extent and in the  
4 manner permitted by the resolution authorizing the issuance of the  
5 bonds.

6 (b) If the district issues bonds payable wholly or partly  
7 from revenue, the board shall impose and, as necessary, revise the  
8 rates of compensation for water sold and services provided by the  
9 district.

10 (c) For bonds payable wholly from revenue, the rates of  
11 compensation must be in an amount sufficient to:

12 (1) pay the expenses of operating and maintaining the  
13 district's facilities;

14 (2) pay the bonds as they mature and the interest as it  
15 accrues; and

16 (3) maintain the reserve and other funds as provided  
17 by the resolution authorizing the issuance of the bonds.

18 (d) For bonds payable partly from revenue, the rates of  
19 compensation must be in an amount sufficient to assure compliance  
20 with the resolution authorizing the issuance of the bonds. (Acts  
21 59th Leg., R.S., Ch. 719, Secs. 6(d), (e).)

22 Source Law

23 (d) Where bonds are issued, payable wholly or  
24 partially from ad valorem taxes, it shall be the duty  
25 of the Board of Directors to levy, assess and cause to  
26 be collected a tax sufficient to pay the bonds and the  
27 interest thereon as such bonds and interest become  
28 due, and in levying such tax shall take into  
29 consideration reasonable delinquencies and costs of  
30 collection. In the case of bonds payable partially  
31 from ad valorem taxes, the rate of the tax for any year  
32 may be fixed after giving consideration to the money  
33 reasonably to be received from the pledged revenues  
34 available for payment of principal and interest and to  
35 the extent and in the manner permitted by the  
36 resolution authorizing the issuance of the bonds.

37 (e) Where bonds payable wholly from revenues are  
38 issued, it shall be the duty of the Board of Directors  
39 to fix, establish and from time to time as necessary  
40 revise the rates of compensation for the sale of water  
41 and other services furnished, supplied and rendered by  
42 the District and collect same in amounts sufficient to  
43 pay the expenses of operating and maintaining the  
44 facilities of the District and to pay the bonds as they  
45 mature and the interest as it accrues, and to maintain

1 the reserve and other funds as provided in the  
2 resolution authorizing the bonds. Where bonds payable  
3 partially from revenues are issued, it shall be the  
4 duty of the Board to fix, establish and from time to  
5 time as necessary revise the rates of compensation for  
6 the sale of water and other services furnished,  
7 supplied and rendered by the District and to collect  
8 same in amounts sufficient to assure compliance with  
9 the resolution authorizing the bonds.

10 Revisor's Note

11 (1) Section 6(d), Chapter 719, Acts of the 59th  
12 Legislature, Regular Session, 1965, authorizes the  
13 district to "levy, assess and cause to be collected" a  
14 tax to pay district bonds payable from ad valorem  
15 taxes. The revised law substitutes "impose" for the  
16 quoted language for the reason stated in Revisor's Note  
17 (2) to Section 9092.0402.

18 (2) Section 6(d), Chapter 719, Acts of the 59th  
19 Legislature, Regular Session, 1965, provides that the  
20 rate of the ad valorem tax for any year may be "fixed"  
21 by the board. The revised law substitutes "adopt" for  
22 "fixed" to conform to the terminology used in Section  
23 26.05, Tax Code.

24 (3) Section 6(e), Chapter 719, Acts of the 59th  
25 Legislature, Regular Session, 1965, authorizes the  
26 district to "fix, establish" and "collect" rates to  
27 pay district bonds payable from revenues. The revised  
28 law substitutes "impose" for the quoted language  
29 because, in context, the language has the same meaning  
30 and "impose" is more commonly used.

31 (4) Section 6(e), Chapter 719, Acts of the 59th  
32 Legislature, Regular Session, 1965, refers to services  
33 "furnished, supplied and rendered" by the district.  
34 The revised law substitutes "provided" for the quoted  
35 language because, in context, "furnished,"  
36 "supplied," and "rendered" are included in the meaning  
37 of "provided."

1 Revised Law

2 Sec. 9092.0508. ADDITIONAL SECURITY. (a) District bonds,  
3 including revenue bonds, that are not payable wholly from ad  
4 valorem taxes may be additionally secured, at the board's  
5 discretion, by a deed of trust or mortgage lien on the district's  
6 physical property and on all franchises, easements, water rights  
7 and appropriation permits, leases, and contracts and rights  
8 appurtenant to the property, vesting in the trustee power to:

- 9 (1) sell the property for the payment of the debt;  
10 (2) operate the property; and  
11 (3) take other action to further secure the bonds.

12 (b) A purchaser under a sale under the deed of trust lien, if  
13 one is given:

- 14 (1) is the absolute owner of the property, facilities,  
15 and rights purchased; and  
16 (2) is entitled to maintain and operate the property,  
17 facilities, and rights. (Acts 59th Leg., R.S., Ch. 719, Sec. 8  
18 (part).)

19 Source Law

20 Sec. 8. Any bonds (including revenue bonds)  
21 authorized by this Act, not payable wholly from ad  
22 valorem taxes, . . . Such bonds, within the  
23 discretion of the Board of Directors, may be  
24 additionally secured by a deed of trust or mortgage  
25 lien upon physical properties of the District and all  
26 franchises, easements, water rights and appropriation  
27 permits, leases and contracts and all rights  
28 appurtenant to such properties, vesting in the trustee  
29 power to sell the properties for payment of the  
30 indebtedness, power to operate the properties and all  
31 other powers and authority for the further security of  
32 the bonds. . . . Any purchaser under a sale under the  
33 deed of trust lien, where one is given, shall be the  
34 absolute owner of the properties, facilities and  
35 rights so purchased and shall have the right to  
36 maintain and operate the same.

37 Revised Law

38 Sec. 9092.0509. TRUST INDENTURE. (a) District bonds,  
39 including revenue bonds, that are not payable wholly from ad  
40 valorem taxes may be additionally secured by a trust indenture. The  
41 trustee may be a bank with trust powers located inside or outside  
42 this state.

1 (b) A trust indenture, regardless of the existence of a deed  
2 of trust or mortgage lien on property, may:

3 (1) contain any provisions prescribed by the board for  
4 the security of the bonds and the preservation of the trust estate;

5 (2) provide for amendment or modification of the trust  
6 indenture;

7 (3) provide for the issuance of bonds to replace lost  
8 or mutilated bonds;

9 (4) condition the right to spend district money or  
10 sell district property on the approval of a licensed engineer  
11 selected as provided by the trust indenture; and

12 (5) provide for the investment of district money.  
13 (Acts 59th Leg., R.S., Ch. 719, Sec. 8 (part).)

14 Source Law

15 Sec. 8. Any bonds (including revenue bonds)  
16 authorized by this Act, not payable wholly from ad  
17 valorem taxes, may be additionally secured by a trust  
18 indenture under which the trustee may be a bank having  
19 trust powers, situated either within or without the  
20 State of Texas. . . . Such trust indenture,  
21 regardless of the existence of the deed of trust or  
22 mortgage lien on the properties, may contain any  
23 provisions prescribed by the Board of Directors for  
24 the security of the bonds and the preservation of the  
25 trust estate, and may make provision for amendment or  
26 modification thereof and the issuance of bonds to  
27 replace lost or mutilated bonds, and may condition the  
28 right to expend District money or sell District  
29 property upon approval of a registered professional  
30 engineer selected as provided therein, and may make  
31 provision for the investment of funds of the  
32 District. . . .

33 Revisor's Note

34 Section 8, Chapter 719, Acts of the 59th  
35 Legislature, Regular Session, 1965, refers to a  
36 "registered professional engineer." The revised law  
37 substitutes "licensed engineer" for the quoted  
38 language because under Chapter 1001, Occupations Code,  
39 engineers are licensed, not registered.

40 Revised Law

41 Sec. 9092.0510. INTERIM BONDS OR NOTES. Before issuing  
42 definitive bonds, the board may issue interim bonds or notes

1 exchangeable for definitive bonds. (Acts 59th Leg., R.S., Ch. 719,  
2 Sec. 6(a) (part).)

3 Source Law

4 (a) . . . Pending the issuance of definitive  
5 bonds, the Board may authorize the delivery of  
6 negotiable interim bonds or notes eligible for  
7 exchange or substitution by use of definitive  
8 bonds. . . .

9 Revisor's Note

10 (1) Section 6(a), Chapter 719, Acts of the 59th  
11 Legislature, Regular Session, 1965, refers to  
12 "negotiable" interim bonds or notes. The revised law  
13 omits "negotiable" for the reason stated in Revisor's  
14 Note (1) to Section 9092.0501.

15 (2) Section 6(a), Chapter 719, Acts of the 59th  
16 Legislature, Regular Session, 1965, refers to bonds or  
17 notes "eligible for exchange or substitution." The  
18 revised law substitutes "exchangeable" for the quoted  
19 language because, in context, "substitution" is  
20 included in the meaning of "exchange."

21 Revised Law

22 Sec. 9092.0511. USE OF BOND PROCEEDS. (a) The district may  
23 set aside an amount of proceeds from the sale of district bonds for  
24 the payment of interest expected to accrue during construction and  
25 a reserve interest and sinking fund. The resolution authorizing  
26 the bonds may provide for setting aside and using the proceeds as  
27 provided by this subsection.

28 (b) The district may use proceeds from the sale of bonds to  
29 pay any expense necessarily incurred in accomplishing the  
30 district's purpose, including the expense of organizing the  
31 district, engineering investigations, and issuing and selling the  
32 bonds.

33 (c) The proceeds from the sale of the bonds may be:

34 (1) placed on time deposit with the district's  
35 depository bank; or

36 (2) temporarily invested in direct obligations of the



1 United States maturing not later than the first anniversary of the  
2 date of investment. (Acts 59th Leg., R.S., Ch. 719, Sec. 6(f).)

3 Source Law

4 (f) From the proceeds of the sale of bonds, the  
5 District may set aside an amount for the payment of  
6 interest expected to accrue during construction and a  
7 reserve interest and sinking fund, and such provision  
8 may be made in the resolution authorizing the bonds.  
9 Proceeds from the sale of bonds may also be used for  
10 the payment of all expenses necessarily incurred in  
11 accomplishing the purpose for which the District is  
12 created, including expenses of its organization,  
13 engineering investigations and of the issuance and  
14 sale of the bonds. The proceeds from the sale of the  
15 bonds may be placed on time deposit with the District's  
16 depository bank or may be temporarily invested in  
17 direct obligations of the United States Government  
18 maturing in not more than one (1) year from the date of  
19 investment.

20 Revised Law

21 Sec. 9092.0512. APPOINTMENT OF RECEIVER. (a) On default or  
22 threatened default in the payment of principal of or interest on  
23 district bonds that are payable wholly or partly from revenue, a  
24 court may, on petition of the holders of outstanding bonds, appoint  
25 a receiver for the district.

26 (b) The receiver may:

27 (1) collect and receive all district income except  
28 taxes;

29 (2) employ and discharge district agents and  
30 employees;

31 (3) take charge of money on hand, except money  
32 received from taxes, unless commingled; and

33 (4) manage the district's proprietary affairs without  
34 the consent of or hindrance by the board.

35 (c) The receiver may be authorized to sell or contract for  
36 the sale of water or other services provided by the district or to  
37 renew those contracts with the approval of the court that appointed  
38 the receiver.

39 (d) The court may vest the receiver with any other power or  
40 duty the court finds necessary to protect the bondholders. (Acts  
41 59th Leg., R.S., Ch. 719, Sec. 6(g) (part).)

1 Source Law

2 (g) In the event of a default or a threatened  
3 default in the payment of principal of or interest on  
4 bonds payable wholly or partially from revenues, any  
5 court of competent jurisdiction may, upon petition of  
6 the holders of the outstanding bonds, appoint a  
7 receiver with authority to collect and receive all  
8 income of the District except taxes, employ and  
9 discharge agents and employees of the District, take  
10 charge of funds on hand (except funds received from  
11 taxes unless commingled) and manage the proprietary  
12 affairs of the District without consent or hindrance  
13 by the Directors. Such receiver may also be authorized  
14 to sell or make contracts for the sale of water or  
15 other services furnished by the District or renew such  
16 contracts with the approval of the court appointing  
17 him. The court may vest the receiver with such other  
18 powers and duties as the court may find necessary for  
19 the protection of the holders of the bonds. . . .

20 Revisor's Note

21 (1) Section 6(g), Chapter 719, Acts of the 59th  
22 Legislature, Regular Session, 1965, refers to a court  
23 "of competent jurisdiction." The revised law omits  
24 the quoted language because the general laws of civil  
25 jurisdiction determine which courts have "competent  
26 jurisdiction" over a matter. For example, see Section  
27 24.003, Government Code, for the jurisdiction of  
28 certain district courts to appoint receivers.

29 (2) Section 6(g), Chapter 719, Acts of the 59th  
30 Legislature, Regular Session, 1965, refers to  
31 contracts for the sale of water or other services  
32 "furnished" by the district. The revised law  
33 substitutes "provided" for "furnished" for the reason  
34 stated in Revisor's Note (4) to Section 9092.0507.

35 Revised Law

36 Sec. 9092.0513. REFUNDING BONDS. (a) The district may  
37 issue refunding bonds to refund outstanding bonds issued under this  
38 chapter and interest on those bonds.

39 (b) Refunding bonds may:

40 (1) be issued to refund bonds of more than one series  
41 and combine the pledges for the outstanding bonds for the security  
42 of the refunding bonds; and



1 Legislature, Regular Session, 1965, refers to  
2 provisions relating to the "approval [of district  
3 bonds] by the Attorney General" and applies those  
4 provisions to refunding bonds. Section 10, Chapter  
5 719, Acts of the 59th Legislature, Regular Session,  
6 1965, requires the district to deliver bonds the  
7 district issues to the attorney general for  
8 examination and approval. Section 10 also requires  
9 the attorney general to approve district bonds if the  
10 bonds were authorized under law. In addition, Section  
11 10 provides that after approval the bonds must be  
12 registered with the comptroller and that after  
13 approval and registration the bonds are incontestable.  
14 The revised law omits the quoted language of Section 7  
15 and the provisions of Section 10 as superseded by  
16 Chapter 1202, Government Code (enacted as Article 3,  
17 Chapter 53, Acts of the 70th Legislature, 2nd Called  
18 Session, 1987). Section 1202.003, Government Code,  
19 provides for approval of the bonds by the attorney  
20 general and requires the attorney general to submit  
21 the approved bonds to the comptroller for  
22 registration. Section 1202.005, Government Code,  
23 requires registration of the bonds by the comptroller.  
24 Section 1202.006, Government Code, provides that after  
25 approval and registration the bonds are incontestable  
26 and binding obligations. Chapter 1202, Government  
27 Code, applies to district bonds under Sections  
28 1202.001 and 1202.003(c) of that code. The omitted law  
29 from Section 10 reads:

30           Sec. 10. After any bonds (including  
31           refunding bonds) are authorized by the  
32           District, such bonds and the record  
33           relating to their issuance shall be  
34           submitted to the Attorney General for his  
35           examination as to the validity thereof.  
36           . . . If such bonds have been authorized and  
37           . . . in accordance with the Constitution  
38           and laws of the State of Texas, he shall

1 approve the bonds and . . . the bonds shall  
2 then be registered by the Comptroller of  
3 Public Accounts. Thereafter the bonds, and  
4 . . . shall be valid and binding and shall  
5 be incontestable for any cause.

6 Revised Law

7 Sec. 9092.0514. LIMITATION ON RIGHTS. The resolution  
8 authorizing the bonds or the trust indenture securing the bonds may  
9 limit or qualify the rights of less than all of the outstanding  
10 bonds payable from the same source to institute or prosecute  
11 litigation affecting the district's property or income. (Acts 59th  
12 Leg., R.S., Ch. 719, Sec. 6(g) (part).)

13 Source Law

14 (g) . . . The resolution authorizing the  
15 issuance of the bonds or the trust indenture securing  
16 them may limit or qualify the rights of less than all  
17 of the outstanding bonds payable from the same source  
18 to institute or prosecute any litigation affecting the  
19 District's property or income.

20 Revised Law

21 Sec. 9092.0515. BONDS EXEMPT FROM TAXATION. District  
22 bonds, the transfer of the bonds, and the income from the bonds,  
23 including profits made on the sale of the bonds, are exempt from  
24 taxation in this state. (Acts 59th Leg., R.S., Ch. 719, Sec. 14  
25 (part).)

26 Source Law

27 Sec. 14. . . . the bonds issued hereunder and  
28 their transfer and the income therefrom, including the  
29 profits made on the sale thereof, shall at all times be  
30 free from taxation within this State.

31 Revisor's Note  
32 (End of Subchapter)

33 (1) Section 6(a), Chapter 719, Acts of the 59th  
34 Legislature, Regular Session, 1965, provides that  
35 district bonds may be sold at a price and under terms  
36 that the board determines to be the most advantageous  
37 reasonably obtainable. The revised law omits that  
38 provision because it is superseded by general law.  
39 Section 1201.022, Government Code, as amended by  
40 Section 1, Chapter 769, Acts of the 77th Legislature,  
41 Regular Session, 2001, provides that an issuer may

1 sell public securities "under the terms determined by  
2 the governing body of the issuer to be in the issuer's  
3 best interests." Section 1204.006(b), Government  
4 Code, provides that an issuer may sell public  
5 securities at any price. That section reflects the  
6 amendment of Chapter 3, Acts of the 61st Legislature,  
7 Regular Session, 1969 (Article 717k-2, Vernon's Texas  
8 Civil Statutes), now Chapter 1204, Government Code, by  
9 Section 1, Chapter 61, Acts of the 67th Legislature,  
10 Regular Session, 1981. Section 1204.006(b) applies to  
11 district bonds under Sections 1204.001 and 1204.002 of  
12 that code. The omitted law reads:

13 (a) . . . [bonds] . . . may be sold  
14 at a price and under terms as determined by  
15 the Board of Directors to be the most  
16 advantageous reasonably obtainable,  
17 . . . .

18 (2) Section 6(a), Chapter 719, Acts of the 59th  
19 Legislature, Regular Session, 1965, provides that  
20 district bonds may bear interest at a rate not to  
21 exceed six percent. The revised law omits that  
22 provision because it is superseded by general law.  
23 Chapter 3, Acts of the 61st Legislature, Regular  
24 Session, 1969 (Article 717k-2, Vernon's Texas Civil  
25 Statutes), now Chapter 1204, Government Code,  
26 established a maximum interest rate for public  
27 securities. Section 1204.006, Government Code,  
28 permits a public agency to issue public securities at  
29 any net effective interest rate of 15 percent or less.  
30 Section 1204.006, Government Code, applies to district  
31 bonds under Sections 1204.001 and 1204.002 of that  
32 code. The omitted law reads:

33 (a) . . . [bonds . . . may be sold  
34 . . . under terms as determined by the Board  
35 of Directors] . . . provided that the  
36 interest cost to the District, calculated  
37 by the use of standard bond interest tables,  
38 currently in use by insurance companies and  
39 investment houses, does not exceed six per

1 cent (6%) per annum, and . . . .

2 (3) Section 6(a), Chapter 719, Acts of the 59th  
3 Legislature, Regular Session, 1965, provides that  
4 district bonds may be called, or redeemed, before  
5 maturity at the time and price specified in the  
6 resolution authorizing the bonds. The revised law  
7 omits that provision because it duplicates, in  
8 substance, Sections 1201.021 and 1201.022, Government  
9 Code, which provide that a public security may be  
10 redeemed before maturity and be payable in specified  
11 amounts and at specified times. The omitted law reads:

12 (a) . . . [bonds] . . . within the  
13 discretion of the Board may be made callable  
14 prior to maturity at such times and prices  
15 as may be prescribed in the resolution  
16 authorizing the bonds, and . . . .

17 (4) Section 6(a), Chapter 719, Acts of the 59th  
18 Legislature, Regular Session, 1965, provides that  
19 district bonds may be made registrable as to principal  
20 or as to principal and interest. The revised law  
21 omits that provision because it duplicates Section  
22 1201.024(a)(3), Government Code. The omitted law  
23 reads:

24 (a) . . . [bonds] . . . may be made  
25 registrable as to principal or as to both  
26 principal and interest.

27 (5) Section 6(h), Chapter 719, Acts of the 59th  
28 Legislature, Regular Session, 1965, provides that the  
29 provisions of Section 139, Chapter 25, General Laws,  
30 Acts of the 39th Legislature, Regular Session, 1925,  
31 as amended, relating to Texas Water Commission  
32 approval of plans and specifications for projects to  
33 be financed by the sale of bonds apply to the sale of  
34 bonds under Chapter 719, Acts of the 59th Legislature.  
35 Section 139, Chapter 25, General Laws, Acts of the 39th  
36 Legislature, Regular Session, 1925, was codified by  
37 Chapter 58, Acts of the 62nd Legislature, Regular

1 Session, 1971, as Sections 51.421 and 51.422, Water  
2 Code. Chapter 715, Acts of the 74th Legislature,  
3 Regular Session, 1995, repealed Sections 51.421 and  
4 51.422, Water Code, and enacted Sections 49.181 and  
5 49.182, Water Code, to govern the authority of the  
6 Texas Commission on Environmental Quality, the Texas  
7 Water Commission's successor agency, over the issuance  
8 of district bonds and supervision by the commission of  
9 projects and improvements, respectively. The revised  
10 law therefore omits the provision because Sections  
11 49.181 and 49.182, Water Code, determine their own  
12 applicability to the district. Section 49.181(h),  
13 Water Code, provides that Section 49.181 does not  
14 apply to a district if the "district's boundaries  
15 include one entire county." Section 49.181, Water  
16 Code, therefore would not apply to the district if the  
17 district's boundaries were coextensive with Franklin  
18 County. Section 49.182, Water Code, applies only to  
19 district projects and improvements required to be  
20 approved under Subchapter F, Chapter 49 of that code.  
21 The omitted law reads:

22 (h) The provisions of Section 139,  
23 Chapter 25, General Laws, Acts of the 39th  
24 Legislature, Regular Session, 1925, as  
25 amended, relating to Texas Water Commission  
26 approval of plans and specifications for  
27 projects to be financed by the sale of  
28 bonds, apply to the sale of bonds under this  
29 Act.

30 (6) Section 10, Chapter 719, Acts of the 59th  
31 Legislature, Regular Session, 1965, details various  
32 procedures regarding the submission of contracts the  
33 proceeds of which are pledged to the payment of bonds,  
34 together with related proceedings, to the attorney  
35 general, the attorney general's approval of the bond  
36 contracts, and the validity and incontestability of  
37 the approved bonds and bond contracts. The revised law



1 omits the part of Section 10 regarding the submission  
2 of bond contracts and related proceedings to the  
3 attorney general and the attorney general's approval  
4 of the bond contracts as duplicative of or superseded  
5 by Section 1202.003, Government Code (enacted as  
6 Section 3.002(a), Chapter 53, Acts of the 70th  
7 Legislature, 2nd Called Session, 1987 (Article 717k-8,  
8 Vernon's Texas Civil Statutes)), which provides that  
9 the issuer of a public security shall submit to the  
10 attorney general the public security and record of  
11 proceedings and provides for the attorney general's  
12 approval of the public security. The revised law omits  
13 the part of Section 10 regarding the validity and  
14 incontestability of bonds and bond contracts as  
15 duplicative of or superseded by Section 1202.006,  
16 Government Code (enacted as Section 3.002(d), Chapter  
17 53, Acts of the 70th Legislature, 2nd Called Session,  
18 1987 (Article 717k-8, Vernon's Texas Civil Statutes)),  
19 which provides that after approval and registration of  
20 bonds, the bonds and bond contracts are not  
21 contestable for any reason. The omitted law reads:

22           Sec. 10. . . . Where such bonds  
23           recite that they are secured by a pledge of  
24           the proceeds of a contract theretofore made  
25           between the District and any city or other  
26           governmental agency, authority or district,  
27           a copy of such contract and the proceedings  
28           of the city or other governmental agency,  
29           authority or district authorizing such  
30           contract shall also be submitted to the  
31           Attorney General. . . . if such contracts  
32           have been made [in accordance with the  
33           Constitution and laws of the State of Texas,  
34           he shall approve] . . . such contracts and  
35           . . . . [Thereafter] . . . the contracts,  
36           if any, [shall be valid and . . . shall be  
37           incontestable for any cause.]

38           (7) Section 12, Chapter 719, Acts of the 59th  
39           Legislature, Regular Session, 1965, lists the entities  
40           for which district bonds are legal investments and  
41           provides that district bonds may secure deposits of

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

23           Sec. 12. All bonds of the District  
24 shall be and are hereby declared to be legal  
25 and authorized investments for banks,  
26 savings banks, trust companies, building  
27 and loan associations, savings and loan  
28 associations, insurance companies,  
29 fiduciaries, trustees, and sinking funds of  
30 cities, towns and villages, counties,  
31 school districts, or other political  
32 subdivisions of the State of Texas, and for  
33 all public funds of the State of Texas or  
34 its agencies, including the State Permanent  
35 School Fund. Such bonds shall be eligible  
36 to secure deposit of any and all public  
37 funds of the State of Texas, and any and all  
38 public funds of cities, towns, villages,  
39 counties, school districts, or other  
40 political subdivisions or corporations of  
41 the State of Texas; and such bonds shall be  
42 lawful and sufficient security for said  
43 deposits to the extent of their value, when  
44 accompanied by all unmatured coupons  
45 appurtenant thereto.



1 governed by Subchapter J, Chapter 49, Water Code. The  
2 omitted law reads:

3           Sec. 2. . . . it shall not be  
4 necessary for the Board of Directors to call  
5 a confirmation election or to hold a hearing  
6 on the exclusion of lands or a hearing on  
7 the adoption of a plan of taxation, but  
8 . . . .

9           (2) Section 18, Chapter 719, Acts of the 59th  
10 Legislature, Regular Session, 1965, provides that the  
11 act is severable. The revised law omits that provision  
12 because the same result is produced under Section  
13 311.032, Government Code (Code Construction Act),  
14 which provides that a provision of a statute is  
15 severable from each other provision of the statute  
16 that can be given effect. The omitted law reads:

17           Sec. 18. . . . If any provision of  
18 the Act shall be invalid, such fact shall  
19 not affect the creation of the District or  
20 the validity of any other provision of this  
21 Act, and the Legislature hereby declares  
22 that it would have created the District and  
23 enacted the valid provisions of this Act  
24 notwithstanding the invalidity of any other  
25 provision or provisions hereof.

26           (3) Section 19, Chapter 719, Acts of the 59th  
27 Legislature, Regular Session, 1965, contains  
28 legislative findings regarding procedural  
29 requirements for the creation of the district under  
30 the constitution. The revised law omits those  
31 provisions as executed. The omitted law reads:

32           Sec. 19. It is hereby found and  
33 determined that in conformity with Article  
34 XVI, Section 59, of the Constitution of  
35 Texas (as amended in 1964) notice of the  
36 intention to introduce this bill setting  
37 forth the general substance of this  
38 contemplated bill and law has been  
39 published at least thirty (30) days and not  
40 more than ninety (90) days prior to the  
41 introduction of this bill in the  
42 Legislature in a newspaper or newspapers  
43 having general circulation in Franklin  
44 County and by delivering a copy of such  
45 notice and such bill to the Governor, who  
46 has submitted such notice and bill to the  
47 Texas Water Commission, which has filed its  
48 recommendations as to such bill with the  
49 Governor, Lieutenant Governor and Speaker

1 of the House of Representatives within  
2 thirty (30) days from date notice was  
3 received by the Texas Water Commission. The  
4 evidence of the foregoing was exhibited in  
5 the Legislature before the passage of this  
6 Act. The time, form and manner of giving  
7 said notices and the performance of said  
8 acts as required by the Constitution are  
9 hereby found to be sufficient to comply with  
10 the Constitution and such notices and all  
11 acts in relation thereto are hereby  
12 approved and ratified.

13 (4) Section 1, Chapter 308, Acts of the 60th  
14 Legislature, Regular Session, 1967, provides that the  
15 creation of the district, all official actions and  
16 proceedings of the district, and all bonds issued by  
17 the district are ratified, validated, and  
18 incontestable, that the district is found to be  
19 performing its public rights and duties, and that  
20 Chapter 308 does not validate a proceeding or action  
21 that is the subject of pending litigation and is  
22 ultimately determined to be invalid. The validation  
23 provisions are omitted from the revised law because  
24 they served their purposes on the day they took effect  
25 and are executed law. Section 311.031(a)(2),  
26 Government Code (Code Construction Act), provides that  
27 the repeal of a statute does not affect any validation  
28 previously made under the statute. Therefore, the  
29 omission of the executed validation provisions does  
30 not affect those validations.

31 Section 1, Chapter 308, also provides that the  
32 district, as created by Chapter 719, Acts of the 59th  
33 Legislature, Regular Session, 1965, shall continue as  
34 a conservation and reclamation district "subject only  
35 to further acts of the Legislature." If the quoted  
36 phrase is intended to protect the creation, actions,  
37 proceedings, and bonds of the district from  
38 invalidation by a court, the phrase is unnecessary  
39 because the other validation provisions of Section 1,  
40 Chapter 308, served that purpose on the date Section 1

1 took effect. If the quoted phrase is intended to  
2 affect the authority of a non-legislative actor to  
3 take an action that affects the district, the phrase is  
4 misleading because such an action would necessarily  
5 need to be authorized by a legislative act. If the  
6 quoted phrase is intended to affect the authority of a  
7 future legislature over the district, the phrase is  
8 unnecessary and misleading because it is a  
9 well-accepted principle of constitutional law that a  
10 legislature may not, through statutory law, limit or  
11 expand the authority of a future legislature. By  
12 application of that principle, a district created  
13 under an act of the legislature may be modified by a  
14 subsequent legislative act without an express  
15 statement to that effect. The omitted law reads:

16           Sec. 1. [Franklin County Water  
17 District] as created by Chapter 719, Acts of  
18 the 59th Legislature, Regular Session,  
19 1965, all official actions and proceedings  
20 of every nature heretofore accomplished and  
21 performed by it, and all bonds heretofore  
22 authorized by it and approved by the Texas  
23 Water Rights Commission and the Attorney  
24 General of Texas are hereby in all things  
25 ratified and validated and shall be  
26 incontestable. Such district is found and  
27 declared to be performing public rights and  
28 duties for which created, [is a fully  
29 organized and functioning conservation and  
30 reclamation district under the provisions  
31 of Section 59 of Article XVI of the Texas  
32 Constitution and shall continue as such]  
33 subject only to further acts of the  
34 Legislature. It is provided, however, that  
35 this Act shall not be construed as  
36 validating any proceedings or action the  
37 validity of which is involved in litigation  
38 on the effective date of this Act, if such  
39 litigation is ultimately determined against  
40 the validity thereof.