

PRELIMINARY DRAFT

TEXAS LEGISLATIVE COUNCIL  
Special District Local Laws  
Code  
Chapter 9305  
12/6/24

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19 CHAPTER 9305. ESCONDIDO WATERSHED DISTRICT

20 SUBCHAPTER A. GENERAL PROVISIONS

21 Revised Law

22 Sec. 9305.0101. DEFINITIONS. In this chapter:

- 23 (1) "Board" means the district's board of directors.
- 24 (2) "Director" means a board member.
- 25 (3) "District" means the Escondido Watershed

26 District. (Acts 57th Leg., R.S., Ch. 364, Sec. 1 (part); New.)

27 Source Law

28 Sec. 1. . . . [there is hereby created a  
29 conservation and reclamation district] to be known as  
30 "Escondido Watershed District" (hereinafter referred  
31 to as "District"), . . . .

32 Revisor's Note

33 The definitions of "board" and "director" are  
34 added to the revised law for drafting convenience and  
35 to eliminate frequent, unnecessary repetition of the

1 substance of the definitions.

2 Revised Law

3 Sec. 9305.0102. NATURE OF DISTRICT. The district is:

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

6 (2) a political subdivision of this state. (Acts 57th  
7 Leg., R.S., Ch. 364, Sec. 1 (part).)

8 Source Law

9 Sec. 1. Pursuant to and as expressly authorized  
10 by Section 59, Article XVI of the Constitution of the  
11 State of Texas and in addition to all other districts  
12 into which the State has been divided heretofore,  
13 there is hereby created a conservation and reclamation  
14 district . . . which shall be recognized to be a  
15 governmental agency, a body politic and corporate, and  
16 a political subdivision of this State.

17 Revisor's Note

18 (1) Section 1, Chapter 364, Acts of the 57th  
19 Legislature, Regular Session, 1961, provides that "in  
20 addition to all other districts into which the State  
21 has been divided heretofore," the district is "hereby  
22 created." The revised law omits the reference to the  
23 district's creation "in addition to all other  
24 districts into which the State has been divided  
25 heretofore" because the absence of the language does  
26 not imply that the legislature could create a district  
27 outside this state or that the district is not in  
28 addition to other districts created in this state. The  
29 revised law omits the reference to the district being  
30 "hereby created" as executed.

31 (2) Section 1, Chapter 364, Acts of the 57th  
32 Legislature, Regular Session, 1961, refers to the  
33 district as "a governmental agency" and "a body  
34 politic and corporate." The revised law omits those  
35 references because they duplicate part of Section  
36 59(b), Article XVI, Texas Constitution.

1 Revised Law

2 Sec. 9305.0103. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.

3 (a) The district is:

4 (1) created to serve a public use and benefit; and

5 (2) essential to the accomplishment of the  
6 preservation and conservation of this state's natural resources.

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

8 (c) All territory in the district will benefit from the  
9 works and improvements accomplished and provided by the district  
10 under the powers conferred by this chapter and Section 59, Article  
11 XVI, Texas Constitution.

12 (d) This chapter addresses a subject in which this state and  
13 the general public are interested.

14 (e) The district performs an essential public function  
15 under the Texas Constitution in carrying out the purposes of this  
16 chapter because the accomplishment of those purposes is for the  
17 benefit of the people of this state and the improvement of their  
18 properties and industries. (Acts 57th Leg., R.S., Ch. 364, Secs. 3  
19 (part), 4 (part), 15 (part), 16 (part).)

20 Source Law

21 Sec. 3. It is expressly determined and found  
22 that all of the territory included within the area of  
23 the District will be benefited by the works and  
24 improvements which are to be accomplished and provided  
25 by the District pursuant to the powers conferred by the  
26 provisions of Article XVI, Section 59, of the  
27 Constitution of Texas and this Act. . . .

28 Sec. 4. It being hereby found and determined  
29 that all of the land included within the boundaries of  
30 the District will be benefited and that the District is  
31 created to serve a public use and benefit, . . . .

32 Sec. 15. The accomplishment of the purposes  
33 stated in this Act being for the benefit of the people  
34 of this State and for the improvement of their  
35 properties and industries, the District in carrying  
36 out the purposes of this Act will be performing an  
37 essential public function under the Constitution and  
38 . . . .

39 Sec. 16. [The Legislature hereby declares that  
40 the enactment hereof is in fulfillment of a duty  
41 conferred upon it by Section 59 of Article XVI of the  
42 Constitution of Texas wherein it is required to pass  
43 such laws as may be appropriate] in the preservation  
44 and conservation of the natural resources of the  
45 State; that the District herein created is essential  
46 to the accomplishment of such purposes and that this

1 Act therefore operates on a subject in which the State  
2 and the public at large are interested. . . .

3 Revisor's Note

4 Section 16, Chapter 364, Acts of the 57th  
5 Legislature, Regular Session, 1961, contains a  
6 legislative declaration of a constitutional "duty" to  
7 enact Chapter 364 as a law. The revised law omits the  
8 declaration by the legislature as executed and because  
9 it has no substantive effect. The omitted law reads:

10 Sec. 16. The Legislature hereby  
11 declares that the enactment hereof is in  
12 fulfillment of a duty conferred upon it by  
13 Section 59 of Article XVI of the  
14 Constitution of Texas wherein it is  
15 required to pass such laws as may be  
16 appropriate . . . .

17 Revised Law

18 Sec. 9305.0104. DISTRICT TERRITORY. (a) The district is  
19 composed of the territory described by Section 3, Chapter 364, Acts  
20 of the 57th Legislature, Regular Session, 1961, as that territory  
21 may have been modified under:

- 22 (1) Subchapter J, Chapter 49, Water Code; or  
23 (2) other law.

24 (b) The district includes all property and territory in the  
25 district's boundaries. (Acts 57th Leg., R.S., Ch. 364, Sec. 3  
26 (part); New.)

27 Source Law

28 Sec. 3. . . . The area of the District shall  
29 consist of the property and territory embraced within  
30 the following boundaries, to wit: . . . .

31 Revisor's Note

32 The revised law does not revise the statutory  
33 language describing the district's territory to avoid  
34 the lengthy recitation of the description and because  
35 that description may not be accurate on the effective  
36 date of the revision or at the time of a later reading.  
37 For the reader's convenience, the revised law includes  
38 a reference to:

- 39 (1) the statutory authority to change the

1 district's territory under Subchapter J, Chapter 49,  
2 Water Code, applicable to the district under Sections  
3 49.001 and 49.002 of that code; and

4 (2) the legislature's general authority to enact  
5 other laws under which the district's territory may be  
6 changed.

7 Revised Law

8 Sec. 9305.0105. CORRECTION OF INVALID PROCEDURES. If a  
9 court holds that any procedure under this chapter violates the  
10 United States Constitution or the Texas Constitution, the district  
11 by resolution may provide an alternative procedure that conforms  
12 with that constitution. (Acts 57th Leg., R.S., Ch. 364, Sec. 17  
13 (part).)

14 Source Law

15 Sec. 17. . . . [Federal or State  
16 Constitutions] . . . . Where any procedure hereunder  
17 may be held by any Court to be violative of either of  
18 such Constitutions the District shall have the power  
19 by resolution to provide an alternative procedure  
20 conformable to such Constitutions. . . .

21 Revisor's Note

22 (1) Section 17, Chapter 364, Acts of the 57th  
23 Legislature, Regular Session, 1961, provides that the  
24 act may not be construed to violate the federal or  
25 state constitution and requires that action under the  
26 act comply with the constitutions. The revised law  
27 omits as unnecessary the statement that the act may not  
28 be construed to violate the constitutions because  
29 under Section 311.021(1), Government Code (Code  
30 Construction Act), it is presumed that, in enacting a  
31 statute, compliance with the constitutions of the  
32 United States and this state is intended. The revised  
33 law omits as unnecessary the statement that actions  
34 done under the act must conform to the constitutions  
35 for the following reasons. The revised law omits the  
36 provision as it relates to the federal constitution



1           (1) Section 5(a), Chapter 364, Acts of the 57th  
2           Legislature, Regular Session, 1961, provides that  
3           "[a]ll powers of the District shall be exercised by"  
4           the board. The revised law omits the quoted language  
5           because it duplicates, in substance, parts of Sections  
6           49.051 and 49.057, Water Code, which provide that a  
7           district is governed by its board and the board is  
8           responsible for the district's management. Throughout  
9           this chapter, the revised law omits law that is  
10          superseded by or duplicates law in Chapter 49, Water  
11          Code, applicable to the district under Sections 49.001  
12          and 49.002 of that code.

13          (2) Section 5(a), Chapter 364, Acts of the 57th  
14          Legislature, Regular Session, 1961, provides that the  
15          board consists of five directors. The revised law adds  
16          a reference to the directors being "elected" for the  
17          reader's convenience and because it is clear from  
18          Section 5(b), Chapter 364, Acts of the 57th  
19          Legislature, Regular Session, 1961, revised in  
20          relevant part as Section 9305.0203 of this chapter,  
21          that the directors are elected.

22          (3) Section 5(a), Chapter 364, Acts of the 57th  
23          Legislature, Regular Session, 1961, provides that  
24          directors serve the terms of office provided in  
25          Chapter 364 and until the director's successor is  
26          elected or appointed and qualified. Section 5(b) of  
27          that chapter establishes staggered two-year terms for  
28          directors. The revised law omits the term provisions  
29          as superseded by Section 49.103, Water Code (enacted  
30          in 1995). Section 49.103(a) provides that directors  
31          serve staggered four-year terms, and Section 49.103(b)  
32          requires director elections to be held in each  
33          even-numbered year. The revised law omits the  
34          successor qualification requirement because it



1 duplicates Section 17, Article XVI, Texas  
2 Constitution, which provides that an officer in this  
3 state shall continue to perform the officer's duties  
4 until a successor has qualified. The omitted law  
5 reads:

6 (a) . . . Each Director shall serve  
7 for his term of office as herein provided,  
8 and thereafter until his successor shall be  
9 elected or appointed and qualified. . . .

10 (b) . . . Two (2) Directors shall be  
11 elected in each even numbered year and three  
12 (3) in each odd numbered year. . . .

13 Revised Law

14 Sec. 9305.0202. QUALIFICATIONS. A director must:

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

16 (2) reside in and own land in the district. (Acts 57th  
17 Leg., R.S., Ch. 364, Sec. 5(a) (part).)

18 Source Law

19 (a) . . . No person shall be a Director unless  
20 he is at least twenty-one (21) years of age, resides in  
21 and owns land in the territorial limits of the  
22 District. . . .

23 Revisor's Note

24 Section 5(a), Chapter 364, Acts of the 57th  
25 Legislature, Regular Session, 1961, states that a  
26 person must be "at least twenty-one (21) years of age"  
27 to serve as a director. The revised law substitutes "at  
28 least 18 years of age" for the quoted language because  
29 Section 129.001, Civil Practice and Remedies Code,  
30 establishes 18 years of age as the age of majority in  
31 this state. Section 129.002, Civil Practice and  
32 Remedies Code, provides that a law adopted before  
33 August 27, 1973, that extends a right, privilege, or  
34 obligation to an individual on the basis of a minimum  
35 age of 19, 20, or 21 years shall be interpreted as  
36 prescribing a minimum age of 18 years. Section 5 was  
37 enacted in 1961, and the part of that section relating  
38 to a minimum age of 21 years has not been amended.



1 Code (enacted in 1985), applicable to the district  
2 under Section 1.002 of that code. The omitted law  
3 reads:

4 (b) . . . The yearly election shall  
5 be ordered by the Board of Directors. . . .

6 (3) Section 5(b), Chapter 364, Acts of the 57th  
7 Legislature, Regular Session, 1961, requires notice of  
8 a directors' election to include the "time, place and  
9 purpose of the election." The revised law omits that  
10 provision because it duplicates parts of Section  
11 4.004, Election Code. The omitted law reads:

12 (b) . . . The election order shall  
13 state the time, place and purpose of the  
14 election, and . . . .

15 (4) Section 5(b), Chapter 364, Acts of the 57th  
16 Legislature, Regular Session, 1961, provides for the  
17 appointment of a presiding judge, an assistant judge,  
18 and clerks. The revised law omits that provision as  
19 superseded by Chapter 32, Election Code, which  
20 provides for the selection of election judges and  
21 clerks. The omitted law reads:

22 (b) . . . the Board of Directors of  
23 said District shall appoint a presiding  
24 judge who shall appoint an Assistant Judge  
25 and two (2) Clerks to assist in holding the  
26 election. . . .

27 (5) Section 5(b), Chapter 364, Acts of the 57th  
28 Legislature, Regular Session, 1961, provides that only  
29 qualified electors who reside in the district are  
30 entitled to vote at a directors' election. The revised  
31 law omits that provision and similar language  
32 throughout this chapter because it duplicates, in  
33 substance, Sections 11.001(a)(1) and (2), Election  
34 Code, which provide that to be eligible to vote in an  
35 election a person must be a qualified voter as defined  
36 by Section 11.002, Election Code, and be a resident of  
37 the territory covered by the election. The revised law

1 substitutes "voters" for "electors" because the terms  
2 have the same meaning and "voters" is more commonly  
3 used. The omitted law reads:

4 (b) . . . Only qualified electors  
5 residing in the District shall be entitled  
6 to vote at said election. . . .

7 (6) Section 5(b), Chapter 364, Acts of the 57th  
8 Legislature, Regular Session, 1961, provides that the  
9 candidates receiving the highest number of votes are  
10 elected. The revised law omits that provision because  
11 it duplicates, in substance, Section 2.001, Election  
12 Code, which provides that, except as otherwise  
13 provided by law, to be elected to a public office, a  
14 candidate must receive more votes than any other  
15 candidate for the office. The omitted law reads:

16 (b) . . . The candidates receiving  
17 the highest number of votes shall be  
18 declared elected. . . .

19 (7) Section 5(b), Chapter 364, Acts of the 57th  
20 Legislature, Regular Session, 1961, provides that the  
21 board shall receive and canvass the election returns  
22 and enter an order declaring the results. The revised  
23 law omits that provision as superseded by Chapter 67,  
24 Election Code, which provides for the canvass of  
25 elections. The omitted law reads:

26 (b) . . . The returns of the  
27 election shall be made to and canvassed by  
28 the Board of Directors of said District, who  
29 shall enter an order declaring the results  
30 of the election.

31 Revised Law

32 Sec. 9305.0204. BALLOT PETITION. (a) A person who wants  
33 the person's name printed on the ballot as a candidate for director  
34 must submit to the board's secretary a petition requesting that  
35 action.

36 (b) The petition must be signed by at least 10 residents of  
37 the district who are qualified to vote at the election. (Acts 57th  
38 Leg., R.S., Ch. 364, Sec. 5(c) (part).)



1 Revisor's Note

2 Section 5(f), Chapter 364, Acts of the 57th  
3 Legislature, Regular Session, 1961, establishes the  
4 duties of the board president. The revised law omits  
5 that provision because it duplicates, in substance,  
6 Section 49.054(c), Water Code, which provides that the  
7 president is the district's chief executive officer  
8 and presides at all board meetings. The omitted law  
9 reads:

10 (f) . . . . The President shall be  
11 the chief executive officer, and the  
12 presiding officer of the Board, and . . . .

13 Revised Law

14 Sec. 9305.0206. VOTE BY PRESIDENT. The president has the  
15 same right to vote as any other director. (Acts 57th Leg., R.S.,  
16 Ch. 364, Sec. 5(f) (part).)

17 Source Law

18 (f) . . . [The President] . . . shall have the  
19 same right to vote as any other director. . . .

20 Revised Law

21 Sec. 9305.0207. ABSENCE OR INACTION OF PRESIDENT. When the  
22 president is absent or fails or declines to act, the vice president  
23 shall perform all duties and exercise all powers this chapter  
24 confers on the president. (Acts 57th Leg., R.S., Ch. 364, Sec. 5(f)  
25 (part).)

26 Source Law

27 (f) . . . The Vice President shall perform all  
28 duties and exercise all power conferred by this Act  
29 upon the President when the President is absent or  
30 fails or declines to act. . . .

31 Revised Law

32 Sec. 9305.0208. DIRECTOR'S BOND. Each director shall give  
33 bond in the amount of \$5,000 conditioned on the faithful  
34 performance of the director's duties. (Acts 57th Leg., R.S., Ch.  
35 364, Sec. 5(a) (part).)

36 Source Law

37 (a) . . . [Such Directors] . . . each shall give

1 bond in the amount of Five Thousand Dollars (\$5,000)  
2 for the faithful performance of his duties, . . . .

3 Revisor's Note

4 Section 5(a), Chapter 364, Acts of the 57th  
5 Legislature, Regular Session, 1961, provides that the  
6 district shall pay the cost of a director's bond. The  
7 revised law omits that provision because it duplicates  
8 part of Section 49.055(c), Water Code. The omitted law  
9 reads:

10 (a) . . . [each shall give bond]  
11 . . . the cost of which shall be paid by the  
12 District. . . .

13 Revised Law

14 Sec. 9305.0209. EMPLOYEES. The board may employ a general  
15 manager, attorneys, accountants, engineers, or other technical or  
16 nontechnical employees or assistants and set the amount and manner  
17 of their compensation. (Acts 57th Leg., R.S., Ch. 364, Sec. 5(g)  
18 (part).)

19 Source Law

20 (g) [The Board of Directors] . . . may employ a  
21 general manager, attorneys, accountants, engineers,  
22 or other technical or nontechnical employees or  
23 assistants; fix the amount and manner of their  
24 compensation and . . . .

25 Revisor's Note

26 Section 5(g), Chapter 364, Acts of the 57th  
27 Legislature, Regular Session, 1961, provides that the  
28 board may "fix" the amount and manner of employee  
29 compensation. The revised law substitutes "set" for  
30 "fix" because, in context, the terms have the same  
31 meaning and "set" is more commonly used.

32 Revised Law

33 Sec. 9305.0210. EXPENDITURES. The board may provide for  
34 the payment of expenditures considered essential to the proper  
35 operation and maintenance of the district and the district's  
36 affairs. (Acts 57th Leg., R.S., Ch. 364, Sec. 5(g) (part).)

37 Source Law

38 (g) [The Board of Directors . . . may] . . .

1 provide for the payment of all expenditures deemed  
2 essential to the proper operation and maintenance of  
3 the District and its affairs.

4 Revised Law

5 Sec. 9305.0211. SEAL. The board may adopt a seal for the  
6 district. (Acts 57th Leg., R.S., Ch. 364, Sec. 5(f) (part).)

7 Source Law

8 (f) . . . The Board may adopt a seal for the  
9 District.

10 Revisor's Note  
11 (End of Subchapter)

12 (1) Section 5(a), Chapter 364, Acts of the 57th  
13 Legislature, Regular Session, 1961, requires each  
14 director to take the constitutional oath of office.  
15 The revised law omits that provision because it  
16 duplicates Section 1, Article XVI, Texas Constitution.  
17 The omitted law reads:

18 (a) . . . Such Directors shall  
19 subscribe to the Constitutional oath of  
20 office and . . . .

21 (2) Section 5(a), Chapter 364, Acts of the 57th  
22 Legislature, Regular Session, 1961, provides that a  
23 majority of the directors constitutes a quorum. The  
24 revised law omits that provision because it duplicates  
25 Section 49.053, Water Code. The omitted law reads:

26 (a) . . . [Such Directors] . . . .  
27 A majority shall constitute a quorum.

28 (3) Section 5(d), Chapter 364, Acts of the 57th  
29 Legislature, Regular Session, 1961, describes the  
30 procedure for filling a board vacancy. The revised law  
31 omits that provision because it duplicates, in  
32 substance, Section 49.105, Water Code, which  
33 establishes procedures for filling a board vacancy.  
34 The omitted law reads:

35 (d) Any vacancies occurring in the  
36 Board of Directors shall be filled for the  
37 unexpired term by majority vote of the  
38 remaining Directors.

39 (4) Section 5(e), Chapter 364, Acts of the 57th



1 Legislature, Regular Session, 1961, provides that a  
2 director may receive fees not to exceed \$10 for each  
3 board meeting or \$20 for board meetings held in the  
4 same calendar month. The revised law omits that  
5 provision for the following reasons. Section 49.060,  
6 Water Code, also provides for a director's fees of  
7 office, computed on a rate per day of certain service.  
8 Section 49.060(a), Water Code, requires the board to  
9 adopt a resolution setting the fees of office in  
10 accordance with the requirements of Section 49.060.  
11 Section 49.060(e), Water Code, provides that, in all  
12 areas of conflict, Section 49.060 takes precedence  
13 over all prior statutory enactments. The omitted law  
14 reads:

15 (e) The Directors may receive such  
16 fees for attending Board meetings as may be  
17 established by unanimous vote of the Board,  
18 but not to exceed Ten Dollars (\$10) for each  
19 meeting and no more than Twenty Dollars  
20 (\$20) for meetings held in any one calendar  
21 month. . . .

22 (5) Section 5(e), Chapter 364, Acts of the 57th  
23 Legislature, Regular Session, 1961, provides for  
24 reimbursement of a director's actual expenses incurred  
25 when conducting district business if approved by the  
26 board. The revised law omits the provision because it  
27 is superseded by Sections 49.060(b) and (c), Water  
28 Code, which authorize reimbursement of a director's  
29 expenses if certain conditions are met. Section  
30 49.060(e), Water Code, provides that, in all areas of  
31 conflict, Section 49.060 takes precedence over all  
32 prior statutory enactments. The omitted law reads:

33 (e) . . . Said Directors shall also  
34 be entitled to receive reimbursement for  
35 actual expenses incurred in attending to  
36 District business provided that such  
37 services and expenses are approved by the  
38 Board.

39 SUBCHAPTER C. POWERS AND DUTIES

1 Revised Law

2 Sec. 9305.0301. GENERAL POWERS. The district may:

3 (1) control, store, and distribute the water and flood  
4 water in the district for or in aid of conserving, preserving,  
5 reclaiming, and improving the land and soil in the district;

6 (2) carry out flood prevention measures to prevent or  
7 aid in preventing damage to land and soil and the fertility of the  
8 land and soil;

9 (3) engage in land treatment measures to prevent  
10 deterioration, erosion, and loss of land and soil;

11 (4) carry out preventive and control measures in the  
12 district;

13 (5) construct, acquire, improve, carry out, maintain,  
14 repair, and operate dams, structures, projects, and works of  
15 improvement for:

16 (A) flood prevention, including structural and  
17 land treatment measures;

18 (B) agricultural and land treatment measures;  
19 and

20 (C) agricultural phases of the conservation,  
21 development, use, and disposal of water in the district; and

22 (6) purchase or acquire other facilities and equipment  
23 necessarily connected with the functions described by Subdivision  
24 (5) and engage in activities necessary to carry out those  
25 functions. (Acts 57th Leg., R.S., Ch. 364, Sec. 2 (part).)

26 Source Law

27 Sec. 2. The District herein created shall be and  
28 it is hereby empowered to control, store and  
29 distribute the waters and floodwaters within the  
30 District for the conservation, preservation,  
31 reclamation and improvement of the soil and lands or in  
32 aid thereof within the District; to carry out flood  
33 prevention measures to prevent or aid in the  
34 prevention of damage to land and soil and the fertility  
35 thereof; to engage in land treatment measures to  
36 prevent deterioration, erosion and loss of land and  
37 soil; to carry out preventive and control measures  
38 within the District; to construct, acquire, improve,  
39 carry out, maintain, repair and operate dams,  
40 structures, projects and works of improvement for  
41 flood prevention (including structural and land

1 treatment measures) and for agricultural and land  
2 treatment measures and for agricultural phases of the  
3 conservation, development, utilization and disposal  
4 of water within the District and to purchase or acquire  
5 other facilities and equipment necessary in connection  
6 therewith and to engage in activities necessary to  
7 carry out these functions; . . . .

8 Revised Law

9 Sec. 9305.0302. EMINENT DOMAIN. (a) To carry out a power  
10 conferred by this chapter, the district may exercise the power of  
11 eminent domain to acquire land and easements in the district.

12 (b) The district must exercise the power of eminent domain  
13 in the manner provided by Chapter 21, Property Code.

14 (c) The board shall determine the amount and type of  
15 interest in land and easements to be acquired under this section.

16 (d) The district's authority under this section to exercise  
17 the power of eminent domain expired on September 1, 2013, unless the  
18 district submitted a letter to the comptroller in accordance with  
19 Section 2206.101(b), Government Code, not later than December 31,  
20 2012. (Acts 57th Leg., R.S., Ch. 364, Sec. 6 (part); New.)

21 Source Law

22 Sec. 6. For the purpose of carrying out any  
23 power or authority conferred by this Act, the District  
24 shall have the right to acquire land and easements  
25 within the District by condemnation in the manner  
26 provided by Title 52 Revised Civil Statutes, as  
27 amended, relating to eminent domain. The amount of and  
28 character of interest in land and easements thus to be  
29 acquired shall be determined by the Board of  
30 Directors. . . .

31 Revisor's Note

32 (1) Section 6, Chapter 364, Acts of the 57th  
33 Legislature, Regular Session, 1961, provides that the  
34 district has the right to acquire certain property by  
35 condemnation for the purpose of carrying out any  
36 "power or authority" conferred by that Act.  
37 Throughout this chapter, in this and similar contexts,  
38 the revised law omits "authority" as included in the  
39 meaning of "power."

40 (2) Section 6, Chapter 364, Acts of the 57th  
41 Legislature, Regular Session, 1961, provides that "the

1 District shall have the right to acquire [certain  
2 property] by condemnation." The revised law  
3 substitutes "the district may exercise the power of  
4 eminent domain to acquire [certain property]" for the  
5 quoted language because the phrases have the same  
6 meaning and the latter is consistent with modern usage  
7 in laws relating to eminent domain.

8 (3) Section 6, Chapter 364, Acts of the 57th  
9 Legislature, Regular Session, 1961, refers to Title  
10 52, Revised Civil Statutes, as amended. The relevant  
11 provisions of Title 52 were codified as Chapter 21,  
12 Property Code. The revised law is drafted  
13 accordingly. The revised law omits the reference to  
14 "as amended" because under Section 311.027, Government  
15 Code (Code Construction Act), unless expressly  
16 provided otherwise, a reference to a statute applies  
17 to all reenactments, revisions, or amendments of the  
18 statute.

19 (4) Section 6, Chapter 364, Acts of the 57th  
20 Legislature, Regular Session, 1961, grants the  
21 district eminent domain authority, subject to certain  
22 limitations. Section 2206.101, Government Code,  
23 required an entity with eminent domain authority to  
24 submit a letter with certain information to the  
25 comptroller not later than December 31, 2012, to  
26 prevent the entity's eminent domain authority from  
27 expiring on September 1, 2013. To avoid the appearance  
28 that this revision recognizes authority that the  
29 district may not possess at the time of the revision,  
30 the revised law includes a provision setting out the  
31 requirements of Section 2206.101, Government Code.

32 Revised Law

33 Sec. 9305.0303. COST OF RELOCATING OR ALTERING PROPERTY.

34 (a) In this section, "sole expense" means the actual cost of

1 relocating, raising, lowering, rerouting, changing the grade of, or  
2 altering the construction of a facility described by Subsection (b)  
3 in providing comparable replacement without enhancing the  
4 facility, after deducting from that cost the net salvage value  
5 derived from the old facility.

6 (b) If the district's exercise of the power of eminent  
7 domain, the power of relocation, or any other power granted by this  
8 chapter makes necessary relocating, raising, rerouting, changing  
9 the grade of, or altering the construction of a highway, railroad,  
10 electric transmission line, telephone or telegraph property or  
11 facility, or pipeline, the necessary action shall be accomplished  
12 at the district's sole expense. (Acts 57th Leg., R.S., Ch. 364,  
13 Sec. 6(part).)

14 Source Law

15 Sec. 6. . . . In the event that the District,  
16 in the exercise of the power of eminent domain or power  
17 of relocation, or any other power granted hereunder,  
18 makes necessary the relocation, raising, re-routing or  
19 changing the grade of, or altering the construction of  
20 any highway, railroad, electric transmission line,  
21 telephone or telegraph properties and facilities, or  
22 pipeline, all such necessary relocation, raising,  
23 re-routing, changing of grade or alteration of  
24 construction shall be accomplished at the sole expense  
25 of the District.

26 The term "sole expense" shall mean the actual  
27 cost of such relocation, raising, lowering,  
28 re-routing, or change in grade or alteration of  
29 construction in providing comparable replacement  
30 without enhancement of such facilities, after  
31 deducting therefrom the net salvage value derived from  
32 the old facility.

33 Revised Law

34 Sec. 9305.0304. SURVEYS AND INVESTIGATIONS. The board may  
35 conduct a survey or an engineering investigation to provide  
36 information for the district to facilitate the accomplishment of a  
37 purpose for which the district is created. (Acts 57th Leg., R.S.,  
38 Ch. 364, Sec. 5(g) (part).)

39 Source Law

40 (g) The Board of Directors, from time to time,  
41 shall be authorized to make or cause to be made surveys  
42 and engineering investigations for the information of  
43 the District to facilitate the accomplishment of the  
44 purposes for which the District is created; and . . .

1 Revisor's Note

2 (1) Section 5(g), Chapter 364, Acts of the 57th  
3 Legislature, Regular Session, 1961, provides that the  
4 board may conduct certain surveys or investigations  
5 "from time to time." The revised law omits the quoted  
6 language because the authority to take an action  
7 implies the authority to take the action at any time.

8 (2) Section 5(g), Chapter 364, Acts of the 57th  
9 Legislature, Regular Session, 1961, provides that the  
10 board may "make or cause to be made" certain surveys  
11 and engineering investigations. The revised law  
12 substitutes "conduct" for the quoted language because,  
13 in context, the language has the same meaning and  
14 "conduct" is more commonly used.

15 Revised Law

16 Sec. 9305.0305. POWER TO QUALIFY FOR BENEFITS UNDER OTHER  
17 LAW. The district has the power necessary to fully qualify for and  
18 gain the full benefits of any law helpful in carrying out the  
19 purposes for which the district is created. (Acts 57th Leg., R.S.,  
20 Ch. 364, Sec. 2 (part).)

21 Source Law

22 Sec. 2. . . . it being the intention of the  
23 Legislature that the District herein created shall  
24 have all the power and authority necessary to fully  
25 qualify and gain the full benefits of any and all such  
26 laws which are in any wise helpful in carrying out the  
27 purposes for which the District is created and . . . .

28 Revisor's Note

29 (1) Section 2, Chapter 364, Acts of the 57th  
30 Legislature, Regular Session, 1961, authorizes the  
31 district to cooperate with certain entities to  
32 implement the act, and specifically authorizes the  
33 district to cooperate with state and federal entities  
34 to receive benefits under Public Law 566, 83rd  
35 Congress, Chapter 656, 2nd Session, H.R. 6788, as  
36 amended, now codified as the Watershed Protection and

1 Flood Prevention Act (16 U.S.C. Section 1001 et seq.),  
2 and any state law. The revised law omits that provision  
3 because it duplicates other law. To the extent the  
4 provision authorizes the district to receive various  
5 benefits under the Watershed Protection and Flood  
6 Prevention Act and any state law, it duplicates, in  
7 substance, a later part of Section 2, revised as this  
8 section, which provides that the district has the  
9 power necessary to fully qualify and gain the full  
10 benefits of any law, including that act and any state  
11 law, that is helpful in carrying out the purposes for  
12 which the district is created. To the extent the  
13 provision authorizes the district to cooperate with  
14 certain entities to receive those benefits, it  
15 duplicates, in substance, Section 49.227, Water Code,  
16 which provides the district with the power to act  
17 jointly with any person or entity in the performance of  
18 any of the powers permitted by law. The omitted law  
19 reads:

20           Sec. 2. [The District herein created  
21 shall be and it is hereby empowered] . . .  
22 to co-operate with other conservation  
23 districts, county officials, conservation  
24 officials and personnel of the county,  
25 State and Federal Government, State Soil  
26 Conservation Board, State Agricultural  
27 Department, Secretary of Agriculture of the  
28 United States, and other county, State and  
29 Federal agencies and departments in order  
30 to carry out the purposes of this Act.  
31 Without limiting the generality of the  
32 foregoing the District shall be and it is  
33 hereby empowered to co-operate with the  
34 State and Federal Government, their  
35 agencies, departments and representatives  
36 in getting assistance, aid, benefits,  
37 grants, credit and money as provided in  
38 Public Law 566, Eighty-third Congress,  
39 Chapter 656, Second Session H.R. 6788, and  
40 amendments thereto, and as may now or  
41 hereafter be provided by any laws of the  
42 State of Texas, . . . .

43           (2) Section 2, Chapter 364, Acts of the 57th  
44 Legislature, Regular Session, 1961, provides that "it  
45 being the intention of the Legislature that the

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

7 (3) Section 2, Chapter 364, Acts of the 57th  
8 Legislature, Regular Session, 1961, provides that  
9 certain laws of which the district may avail itself are  
10 adopted by reference and made applicable to the  
11 district. The revised law omits that provision as  
12 unnecessary because a law of which the district may  
13 lawfully avail itself applies to the district on its  
14 own terms without needing to be adopted or made  
15 applicable by reference under any additional law. The  
16 omitted law reads:

17 Sec. 2. . . . the provisions of all  
18 such laws of which the District may lawfully  
19 avail itself are hereby adopted by this  
20 reference and made applicable to the  
21 District.

22 Revisor's Note  
23 (End of Subchapter)

24 Section 2, Chapter 364, Acts of the 57th  
25 Legislature, Regular Session, 1961, provides that the  
26 district may acquire various property interests in the  
27 district for the purposes of the district. The revised  
28 law omits that provision because it duplicates, in  
29 substance, part of Section 49.218, Water Code, which  
30 authorizes a district to acquire various property  
31 interests. The omitted law reads:

32 Sec. 2. [The District herein created  
33 shall be and it is hereby empowered] . . .  
34 to obtain options upon and to acquire, by  
35 purchase, exchange, lease, gift, grant,  
36 bequest, devise, or otherwise, any  
37 property, real or personal, or rights or  
38 interest therein within the District  
39 necessary to carry out the purposes of this  
40 Act and to maintain, administer, and  
41 improve any properties acquired; to



1 purchase or acquire land, easements or  
2 rights-of-way within the District necessary  
3 to carry out the purposes of this Act;  
4 . . . .

5 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

6 Revised Law

7 Sec. 9305.0401. AUTHORITY TO IMPOSE TAX; LIMITATION ON TAX  
8 RATE; TAX ELECTION. (a) If the tax is authorized at an election  
9 under Section 49.107, Water Code, the board annually may impose an  
10 ad valorem tax to provide money:

11 (1) necessary to construct or acquire, maintain, and  
12 operate works, plants, and facilities considered essential or  
13 beneficial to the district and the district's purposes; or

14 (2) adequate to defray the cost of the district's  
15 maintenance, operation, and administration.

16 (b) An election for the imposition of taxes authorized by  
17 this section must be:

18 (1) ordered by the board; and

19 (2) held and conducted, with notice provided and  
20 results determined, in the manner provided by this chapter relating  
21 to elections for the authorization of bonds.

22 (c) In ordering a tax election authorized by this section,  
23 the board must specify the maximum proposed tax rate. To impose a  
24 maintenance tax at a rate that exceeds the maximum rate approved by  
25 the voters, the board must submit the question of a tax rate  
26 increase to the voters in the manner provided by this section.

27 (Acts 57th Leg., R.S., Ch. 364, Sec. 11 (part).)

28 Source Law

29 Sec. 11. The Board of Directors may upon a  
30 favorable majority vote of the qualified property  
31 taxpaying electors of the District, voting at an  
32 election held for the purpose within the boundaries of  
33 such District, levy, assess and collect annual taxes  
34 to provide funds necessary to construct or acquire,  
35 maintain and operate works, plants and facilities  
36 deemed essential or beneficial to the District and its  
37 purposes, and also when so authorized may levy, assess  
38 and collect annual taxes to provide funds adequate to  
39 defray the cost of the maintenance, operation and  
40 administration of the District. Elections for the levy  
41 of such taxes shall be ordered by the Board of  
42 Directors and notice thereof shall be given and same  
43 shall be held and conducted and the results thereof

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

9 Revisor's Note

10 (1) Section 11, Chapter 364, Acts of the 57th  
11 Legislature, Regular Session, 1961, provides that the  
12 district may impose taxes if authorized by "a  
13 favorable majority vote of the qualified property  
14 taxpaying electors of the District, voting at an  
15 election held for the purpose within the boundaries of  
16 such District." The revised law substitutes a  
17 reference to Section 49.107, Water Code, parts of  
18 which duplicate, in substance, provisions of Section  
19 11.

20 To the extent that Section 11 purports to limit  
21 participation in the election to "property taxpaying  
22 electors," the revised law omits the property  
23 taxpaying requirement because in Hill v. Stone, 421  
24 U.S. 289 (1975), the United States Supreme Court  
25 determined that property ownership as a qualification  
26 for voting is an unconstitutional denial of equal  
27 protection. The revised law substitutes "voters" for  
28 "electors" because the terms have the same meaning and  
29 "voters" is more commonly used.

30 (2) Section 11, Chapter 364, Acts of the 57th  
31 Legislature, Regular Session, 1961, authorizes the  
32 district to "levy, assess and collect annual taxes" to  
33 provide "funds" necessary or adequate to pay costs  
34 associated with certain district purposes, and refers  
35 to the maximum amount of a tax that may "be levied" by  
36 the district. The revised law substitutes "impose"  
37 for references to the levy, assessment, and collection  
38 of taxes because "impose" is the term generally used in

1 Title 1, Tax Code, and includes the levy, assessment,  
2 and collection of an ad valorem tax. The revised law  
3 specifies that the tax is an "ad valorem" tax because  
4 it is clear from the source law that the tax is a  
5 property tax, and "ad valorem" tax is the term most  
6 commonly used in Texas law to refer to a tax on  
7 property. Throughout this chapter, the revised law  
8 substitutes "money" for "funds" because, in context,  
9 the terms have the same meaning and "money" is more  
10 commonly used.

11 (3) Section 11, Chapter 364, Acts of the 57th  
12 Legislature, Regular Session, 1961, provides that  
13 taxes levied by the district constitute a lien on the  
14 property against which they are levied and that a  
15 limitation does not bar the enforcement or collection  
16 of those taxes. The revised law omits that provision  
17 to the effect that taxes imposed by the district  
18 constitute a lien on the property taxed because it  
19 duplicates, in substance, Section 32.01, Tax Code,  
20 which provides that a tax lien attaches to property to  
21 secure the payment of all taxes, penalties, and  
22 interest imposed on the property. The revised law  
23 omits that provision to the effect that a limitation  
24 does not bar the enforcement or collection of those  
25 taxes because it was repealed by Section 6(b), Chapter  
26 841, Acts of the 66th Legislature, Regular Session,  
27 1979, which repealed all "general, local, and special  
28 laws" that conflicted with that act. The 1979 act  
29 enacted the Property Tax Code (Title 1, Tax Code), a  
30 comprehensive, substantive codification of the laws  
31 governing the administration of ad valorem taxes.  
32 Section 33.05, Tax Code, provides for a statute of  
33 limitations on suits to collect delinquent taxes.  
34 Sections 32.01 and 33.05, Tax Code, apply to the

1 district under Section 1.02, Tax Code. The omitted law  
2 reads:

3           Sec. 11. . . . All taxes levied by  
4 the District for any purpose shall  
5 constitute a lien on the property against  
6 which levied and limitation shall not bar  
7 the enforcement or collection thereof.  
8 . . .

9           (4) Section 11, Chapter 364, Acts of the 57th  
10 Legislature, Regular Session, 1961, refers to the  
11 "calling" of a tax election by the board. The revised  
12 law substitutes "ordering" for "calling" because  
13 "order" is the term used in Chapter 3, Election Code.

14                           Revised Law

15           Sec. 9305.0402. TAX METHOD. (a) The district shall use the  
16 ad valorem plan of taxation.

17           (b) The board is not required to hold a hearing on the  
18 adoption of a plan of taxation. (Acts 57th Leg., R.S., Ch. 364,  
19 Sec. 4 (part).)

20                           Source Law

21           Sec. 4. . . . it shall not be necessary for the  
22 Board of Directors . . . to hold . . . a hearing on the  
23 adoption of a plan of taxation, but the ad valorem plan  
24 of taxation shall be used by the District.

25                           Revised Law

26           Sec. 9305.0403. DEPOSITORY. (a) The board shall designate  
27 one or more banks to serve as a depository for district money.

28           (b) District money shall be deposited in a designated  
29 depository, except that money shall be remitted to the bank of  
30 payment to pay the principal of and interest on the district's  
31 outstanding bonds.

32           (c) Membership of a bank officer or director on the board  
33 does not disqualify the bank from being designated as a depository.  
34 (Acts 57th Leg., R.S., Ch. 364, Sec. 13 (part).)

35                           Source Law

36           Sec. 13. The Board of Directors shall designate  
37 one or more banks to serve as depository for the funds  
38 of the District. All funds of the District shall be  
39 deposited in such depository bank or banks except that  
40 funds shall be remitted to the bank or banks of payment

1 of principal of and interest on outstanding bonds of  
2 the District. . . . Membership on the Board of  
3 Directors of an officer or director of a bank shall not  
4 disqualify such bank from being designated as  
5 depository.

6 Revisor's Note

7 Section 13, Chapter 364, Acts of the 57th  
8 Legislature, Regular Session, 1961, 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. 9305.0404. PAYMENT OF TAX OR ASSESSMENT NOT REQUIRED.  
28 The district is not required to pay a tax or assessment on a  
29 district project or any part of the project. (Acts 57th Leg., R.S.,  
30 Ch. 364, Sec. 15 (part).)

31 Source Law

32 Sec. 15. [The accomplishment of the purposes  
33 stated in this Act being for the benefit of the people  
34 of this State and for the improvement of their  
35 properties and industries, the District in carrying  
36 out the purposes of this Act will be performing an  
37 essential public function under the Constitution and]  
38 shall not be required to pay any tax or assessment on  
39 the project or any part thereof, and . . . .

40 Revisor's Note  
41 (End of Subchapter)

42 Section 12, Chapter 364, Acts of the 57th  
43 Legislature, Regular Session, 1961, provides that laws

1 applicable to the imposition of ad valorem taxes by a  
2 water control and improvement district, as provided  
3 under Chapter 25, General Laws, Acts of the 39th  
4 Legislature, Regular Session, 1925, apply to the  
5 district. The revised law omits that provision. The  
6 relevant provisions of Chapter 25, General Laws, Acts  
7 of the 39th Legislature, Regular Session, 1925, were  
8 codified in 1971 as part of Chapter 51, Water Code.  
9 Sections 6(a)(3) and (b), Chapter 841, Acts of the 66th  
10 Legislature, Regular Session, 1979, repealed specific  
11 provisions relating to the imposition of ad valorem  
12 taxes contained in Subchapter M, Chapter 51, Water  
13 Code, as well as all "general, local, and special laws"  
14 that conflicted with Chapter 841. The 1979 act enacted  
15 the Property Tax Code (Title 1, Tax Code), a  
16 comprehensive, substantive codification of the laws  
17 governing the administration of ad valorem taxes.  
18 Title 1, Tax Code, provides the exclusive procedures  
19 for the appraisal of property for and the assessment  
20 and collection of ad valorem taxes by a taxing unit,  
21 including the district. The omitted law reads:

22           Sec. 12. The District shall have all  
23 the rights, powers, duties and functions  
24 and shall observe the procedures, insofar  
25 as the same may be applicable and not in  
26 conflict with this Act, in the levy,  
27 equalization and collection of ad valorem  
28 taxes as are provided for Water Control and  
29 Improvement Districts under Chapter 25,  
30 Acts of the Regular Session of the  
31 Thirty-ninth Legislature of Texas in 1925,  
32 as heretofore or hereafter amended and to  
33 provide anything necessary in the  
34 accomplishment of the foregoing in carrying  
35 out the purposes of this Act.

36                           SUBCHAPTER E. BONDS

37                                   Revised Law

38           Sec. 9305.0501. AUTHORITY TO ISSUE BONDS; TAXES FOR BONDS.

39 (a) The district may issue bonds payable from ad valorem taxes  
40 imposed on all taxable property in the district to provide dams,

1 structures, projects, and works of improvement for flood  
2 prevention, including structural and land treatment measures, to  
3 purchase and acquire lands, easements, and rights-of-way and for  
4 agricultural phases of conservation, development, and use and  
5 disposal of water, for necessary facilities, equipment, and  
6 properties in connection therewith and for improvement,  
7 maintenance, repair, and operation of same, and to carry out any  
8 other power conferred by this chapter.

9 (b) The board shall annually impose the taxes in an amount  
10 sufficient to pay the principal of and interest on the bonds as the  
11 bonds and interest become due.

12 (c) Bonds issued under this chapter must be authorized by a  
13 board resolution. (Acts 57th Leg., R.S., Ch. 364, Sec. 7 (part).)

14 Source Law

15 Sec. 7. For the purpose of providing dams,  
16 structures, projects and works of improvement for  
17 flood prevention (including structural and land  
18 treatment measures), for the purchase and acquisition  
19 of lands, easements and rights-of-way and for  
20 agricultural phases of conservation, development and  
21 utilization and disposal of water, and for all other  
22 necessary facilities, equipment and properties in  
23 connection therewith and for the improvement,  
24 maintenance, repair and operation of same and for  
25 carrying out any other powers or authority conferred  
26 by this Act, the District is empowered to issue  
27 negotiable bonds payable from ad valorem taxes to be  
28 levied on all taxable property within the District. It  
29 shall be the duty of the Board of Directors to levy  
30 annual taxes sufficient to pay the bonds and interest  
31 thereon as such bonds and interest become due. . . .  
32 Such bonds shall be authorized by resolution of the  
33 Board of Directors, . . . .

34 Revisor's Note

35 (1) Section 7, Chapter 364, Acts of the 57th  
36 Legislature, Regular Session, 1961, authorizes the  
37 district to issue "negotiable" bonds. The revised law  
38 omits "negotiable" because Section 1201.041,  
39 Government Code, provides that a public security is a  
40 negotiable instrument. Throughout this chapter, the  
41 revised law omits law that is superseded by or  
42 duplicates law in Chapter 1201, Government Code, which  
43 applies to district bonds under Sections 1201.002 and

1 1201.003 of that code.

2 (2) Section 7, Chapter 364, Acts of the 57th  
3 Legislature, Regular Session, 1961, requires bonds to  
4 be authorized by board resolution after having been  
5 voted as provided in Section 8 of Chapter 364. The  
6 revised law omits that provision because the relevant  
7 part of Section 8 is revised as Section 9305.0502 of  
8 this chapter and applies on its own terms without an  
9 express reference to that section. The omitted law  
10 reads:

11 Sec. 7. . . . [Such bonds] . . .  
12 after having been voted as provided in  
13 Section 8, hereof, and . . . .

14 Revised Law

15 Sec. 9305.0502. BOND ELECTION REQUIRED. (a) District  
16 bonds, other than refunding bonds, may not be issued unless  
17 authorized by an election at which a majority of the votes cast  
18 favor the bond issuance.

19 (b) The board may order an election under this section  
20 without a petition. The order must specify:

- 21 (1) the time and place at which the election will be  
22 held;
- 23 (2) the purpose for which the bonds will be issued;
- 24 (3) the maximum amount of the bonds;
- 25 (4) the maximum maturity of the bonds;
- 26 (5) the maximum interest rate of the bonds;
- 27 (6) the form of the ballot; and
- 28 (7) the presiding judge for each polling place.

29 (c) Notice of the election must be given by publishing in a  
30 newspaper of general circulation in the district a substantial copy  
31 of the election order. The notice must be published once each week  
32 for two consecutive weeks. The first publication must be not later  
33 than 14 days before the election date. (Acts 57th Leg., R.S., Ch.  
34 364, Sec. 8 (part).)





1 used in the Election Code.

2 (4) Section 8, Chapter 364, Acts of the 57th  
3 Legislature, Regular Session, 1961, provides for the  
4 appointment of an assistant judge and clerks to assist  
5 in holding a bond election. The revised law omits that  
6 provision for the reason stated in Revisor's Note (4)  
7 to Section 9305.0203. The omitted law reads:

8 Sec. 8. . . . The presiding judge  
9 serving at the voting place or places shall  
10 appoint one (1) assistant judge and at least  
11 two (2) clerks to assist in holding such  
12 election. . . .

13 (5) Section 8, Chapter 364, Acts of the 57th  
14 Legislature, Regular Session, 1961, provides that the  
15 returns of a bond election shall be made to and  
16 canvassed by the board. The revised law omits those  
17 provisions for the reason stated in Revisor's Note (7)  
18 to Section 9305.0203. The omitted law reads:

19 Sec. 8. . . . The returns of the  
20 election shall be made to and canvassed by  
21 the Board of Directors of the District.  
22 . . .

23 (6) Section 8, Chapter 364, Acts of the 57th  
24 Legislature, Regular Session, 1961, provides that the  
25 general laws relating to elections apply to a bond  
26 election except as otherwise provided by that act. The  
27 revised law omits that provision as unnecessary  
28 because an exception to the application of the  
29 Election Code would apply by its own terms. The  
30 omitted law reads:

31 Sec. 8. . . . Except as herein  
32 otherwise provided the General Laws  
33 relating to elections shall be applicable.

34 Revised Law

35 Sec. 9305.0503. FORM OF BONDS. District bonds must be:

- 36 (1) issued in the district's name;  
37 (2) signed by the president; and  
38 (3) attested by the secretary. (Acts 57th Leg., R.S.,

1 Ch. 364, Sec. 7 (part).)

2 Source Law

3 Sec. 7. . . . [Such bonds] . . . shall be issued  
4 in the name of the District. Said bonds shall be signed  
5 by the President, attested by the Secretary, . . . .

6 Revisor's Note

7 Section 7, Chapter 364, Acts of the 57th  
8 Legislature, Regular Session, 1961, provides that  
9 district bonds must bear the district's seal and  
10 authorizes "facsimile" signatures and seals. The  
11 revised law omits those provisions as unnecessary.  
12 The requirement that the bonds bear the district's seal  
13 was impliedly repealed by Section 3, Bond Procedures  
14 Act of 1981 (Article 717k-6, Vernon's Texas Civil  
15 Statutes) (revised in relevant part in 1999 as Section  
16 1201.026(a), Government Code), which provides that  
17 bonds may be signed with or without a seal. The  
18 authorization for the use of facsimile signatures  
19 duplicates Section 1201.026(a), Government Code,  
20 which also provides that bonds and interest coupons  
21 may be executed with manual or facsimile signatures.

22 The omitted law reads:

23 Sec. 7. . . . [Said bonds shall be  
24 signed] . . . with the seal of the District  
25 impressed thereon. The interest coupons  
26 shall be executed by facsimile signatures  
27 of the said President and Secretary and the  
28 statute authorizing facsimile signatures  
29 and seals shall be applicable to the bonds  
30 if so provided in the resolution or  
31 resolutions authorizing same. . . .

32 Revised Law

33 Sec. 9305.0504. MATURITY. District bonds must mature not  
34 later than 40 years after the date of their issuance. (Acts 57th  
35 Leg., R.S., Ch. 364, Sec. 7 (part).)

36 Source Law

37 Sec. 7. . . . [Said bonds] . . . They shall  
38 mature serially or otherwise in not to exceed forty  
39 (40) years from their date and . . . .

1 Revisor's Note

2 Section 7, Chapter 364, Acts of the 57th  
3 Legislature, Regular Session, 1961, provides that  
4 district bonds shall mature "serially or otherwise."  
5 The revised law omits the quoted language because it is  
6 superseded by Section 1201.021, Government Code  
7 (enacted as Section 3, Bond Procedures Act of 1981  
8 (Article 717k-6, Vernon's Texas Civil Statutes)),  
9 which provides that the governing body of an issuer may  
10 determine the time of payment of public securities the  
11 governing body issues, and by Section 1201.022,  
12 Government Code (enacted as Section 5(a), Bond  
13 Procedures Act of 1981 (Article 717k-6, Vernon's Texas  
14 Civil Statutes)), which provides that a public  
15 security may be issued with specified characteristics,  
16 on specified terms, or in a specified manner.

17 Revised Law

18 Sec. 9305.0505. USE OF BOND PROCEEDS. (a) The district may  
19 set aside an amount of proceeds from the sale of district bonds for  
20 the payment of interest to accrue during construction and for one  
21 year after construction and a reserve interest and sinking fund.

22 (b) The district may use proceeds from the sale of the bonds  
23 to pay any expense incurred in accomplishing the purpose for which  
24 the district is created, including:

- 25 (1) the cost of printing and issuing the bonds; and  
26 (2) payment of fees associated with attorneys, fiscal  
27 agents, and engineers.

28 (c) Pending the use of bond proceeds for the purpose for  
29 which the bonds were issued, the board may invest the proceeds in  
30 obligations of or guaranteed by the United States. (Acts 57th Leg.,  
31 R.S., Ch. 364, Sec. 7 (part).)

32 Source Law

33 Sec. 7. . . . Pending the use of bond proceeds  
34 for the purpose for which issued, the Board of  
35 Directors may invest same in obligations of or

1 guaranteed by the United States of America. . . . From  
2 proceeds from the sale of the bonds the District may  
3 set aside an amount for the payment of interest to  
4 accrue during construction and one (1) year thereafter  
5 and a reserve interest and sinking fund. Proceeds from  
6 the sale of the bonds may also be used for the payment  
7 of any and all expenses incurred in accomplishing the  
8 purposes for which this District is created including  
9 but not limited to the payment of attorneys' fees,  
10 fiscal agents' fees, engineers' fees, and to pay the  
11 cost of printing and issuing the bonds.

12 Revised Law

13 Sec. 9305.0506. REFUNDING BONDS. (a) The district without  
14 an election may issue refunding bonds for the purpose of refunding  
15 outstanding bonds authorized by this chapter and the interest on  
16 those bonds.

17 (b) Refunding bonds the district issues may be issued to  
18 refund bonds of more than one series of outstanding bonds.

19 (c) The provisions of this chapter regarding the issuance of  
20 other bonds and the remedies of the holders apply to refunding  
21 bonds.

22 (d) The comptroller shall register the refunding bonds on  
23 surrender and cancellation of the bonds to be refunded.

24 (e) Instead of issuing bonds to be registered on the  
25 surrender and cancellation of the bonds to be refunded, the  
26 district, in the resolution authorizing the issuance of the  
27 refunding bonds, may provide for the sale of the refunding bonds and  
28 the deposit of the proceeds in a bank at which the bonds to be  
29 refunded are payable. In that case, the refunding bonds may be  
30 issued in an amount sufficient to pay the principal of and interest  
31 on the bonds to be refunded to their option date or maturity date,  
32 and the comptroller shall register the refunding bonds without the  
33 concurrent surrender and cancellation of the bonds to be refunded.

34 (Acts 57th Leg., R.S., Ch. 364, Sec. 9.)

35 Source Law

36 Sec. 9. The District is authorized to issue  
37 refunding bonds for the purpose of refunding any  
38 outstanding bonds authorized by this Act and interest  
39 thereon, without an election. Such refunding bonds may  
40 be issued to refund more than one (1) series of  
41 outstanding bonds. The provisions of this law with  
42 reference to the issuance of other bonds and their  
43 approval by the Attorney General and the remedies of

1 the holders shall be applicable to refunding bonds.  
2 Refunding bonds shall be registered by the Comptroller  
3 upon surrender and cancellation of the bonds to be  
4 refunded, but in lieu thereof, the resolution  
5 authorizing their issuance may provide that they shall  
6 be sold and the proceeds thereof deposited in the bank  
7 where the original bonds are payable, in which case the  
8 refunding bonds may be issued in an amount sufficient  
9 to pay the principal and interest on the original bonds  
10 to their option date or maturity date, and the  
11 Comptroller shall register them without concurrent  
12 surrender and cancellation of the original bonds.

13 Revisor's Note

14 Section 9, Chapter 364, Acts of the 57th  
15 Legislature, Regular Session, 1961, refers to  
16 provisions of Chapter 364 referencing "approval [of  
17 bonds] by the Attorney General" and applies them to  
18 refunding bonds. The revised law omits the quoted  
19 language because that language and the provisions of  
20 the chapter it refers to are superseded by Section  
21 1202.003, Government Code (enacted as Section  
22 3.002(a), Chapter 53, Acts of the 70th Legislature,  
23 2nd Called Session, 1987 (Article 717k-8, Vernon's  
24 Texas Civil Statutes)), which provides for approval of  
25 public securities by the attorney general. That  
26 section applies to district bonds under Section  
27 1202.001, Government Code.

28 Revised Law

29 Sec. 9305.0507. BONDS EXEMPT FROM TAXATION. A district  
30 bond, the transfer of the bond, and the income from the bond,  
31 including profits made on the sale of the bond, are exempt from  
32 taxation in this state. (Acts 57th Leg., R.S., Ch. 364, Sec. 15  
33 (part).)

34 Source Law

35 Sec. 15. . . . the bonds issued hereunder and  
36 their transfer and the income therefrom, including the  
37 profits made on the sale thereof, shall at all times be  
38 free from taxation within this State.

39 Revisor's Note  
40 (End of Subchapter)

41 (1) Section 7, Chapter 364, Acts of the 57th  
42 Legislature, Regular Session, 1961, provides that

1 district bonds may be sold at a price and under terms  
2 that the board determines to be the most advantageous  
3 reasonably obtainable. The revised law omits that  
4 provision because it duplicates or is superseded by  
5 provisions of general law. Section 1204.006(b),  
6 Government Code, enacted as Section 2, Chapter 3, Acts  
7 of the 61st Legislature, Regular Session, 1969  
8 (Article 717k-2, Vernon's Texas Civil Statutes), and  
9 applicable to district bonds under Sections 1204.001  
10 and 1204.002 of that code, provides that an issuer may  
11 sell public securities at any price. Section  
12 1201.022, Government Code, as amended by Section 1,  
13 Chapter 769, Acts of the 77th Legislature, Regular  
14 Session, 2001, provides that an issuer may sell public  
15 securities "under the terms determined by the  
16 governing body of the issuer to be in the issuer's best  
17 interests." The omitted law reads:

18           Sec. 7. . . . [Said bonds] . . . may  
19           be sold at a price and under terms  
20           determined by the Board of Directors to be  
21           the most advantageous reasonable  
22           obtainable, . . . .

23           (2) Section 7, Chapter 364, Acts of the 57th  
24 Legislature, Regular Session, 1961, provides that the  
25 interest rate of district bonds may not exceed six  
26 percent. The revised law omits that provision because  
27 it is superseded by other law. Chapter 3, Acts of the  
28 61st Legislature, Regular Session, 1969 (Article  
29 717k-2, Vernon's Texas Civil Statutes), now Chapter  
30 1204, Government Code, established a maximum interest  
31 rate for public securities. Section 1204.006,  
32 Government Code, reflecting the amendment of Article  
33 717k-2 by Section 1, Chapter 61, Acts of the 67th  
34 Legislature, Regular Session, 1981, permits a public  
35 agency to issue public securities at any net effective  
36 interest rate of 15 percent or less. Section 1204.006,

1 Government Code, applies to district bonds under  
2 Sections 1204.001 and 1204.002 of that code. The  
3 omitted law reads:

4 Sec. 7. . . . [Said bonds . . . may  
5 be sold . . . under terms determined by the  
6 Board of Directors] . . . provided that the  
7 interest cost to the District, calculated  
8 by the use of standard bond interest tables  
9 currently in use by insurance companies and  
10 investment houses does not exceed six per  
11 cent (6%) per annum, and . . . .

12 (3) Section 7, Chapter 364, Acts of the 57th  
13 Legislature, Regular Session, 1961, provides that  
14 district bonds may be called, or redeemed, before  
15 maturity at the time and price specified in the  
16 resolution authorizing the bonds. The revised law  
17 omits that provision because it duplicates, in  
18 substance, Sections 1201.021 and 1201.022, Government  
19 Code, which provide that a public security may be  
20 redeemed before maturity and be payable in specified  
21 amounts and at specified times. The omitted law reads:

22 Sec. 7. . . . [Said bonds] . . .  
23 within the discretion of the Board, may be  
24 made callable prior to maturity at such  
25 times and prices as may be prescribed in the  
26 resolution authorizing the bonds, and  
27 . . . .

28 (4) Section 7, Chapter 364, Acts of the 57th  
29 Legislature, Regular Session, 1961, provides that  
30 district bonds may be made registrable as to principal  
31 or as to principal and interest. The revised law omits  
32 that provision because it duplicates Section  
33 1201.024(a)(3), Government Code. The omitted law  
34 reads:

35 Sec. 7. . . . [Said bonds] . . . may  
36 be made registerable as to principal or as  
37 to both principal and interest. . . .

38 (5) Section 7, Chapter 364, Acts of the 57th  
39 Legislature, Regular Session, 1961, states that  
40 district bonds may be issued in "more than one (1)  
41 series and from time to time as required for carrying



1 out the purposes of this Act." The revised law omits  
2 "more than one (1) series" because it duplicates part  
3 of Section 1201.022, Government Code. The revised law  
4 omits "from time to time" for the reason stated in  
5 Revisor's Note (1) to Section 9305.0304. The revised  
6 law omits "as required for carrying out the purposes of  
7 this Act" because Section 7, Chapter 364, Acts of the  
8 57th Legislature, Regular Session, 1961, revised as  
9 Sections 9305.0501, 9305.0503, 9305.0504, and  
10 9305.0505 of this subchapter, authorizes the district  
11 to issue obligations for the purposes of the act. The  
12 omitted law reads:

13           Sec. 7. . . . Bonds may be issued in  
14           more than one (1) series and from time to  
15           time as required for carrying out the  
16           purposes of this Act. . . .

17           (6) Section 10, Chapter 364, Acts of the 57th  
18           Legislature, Regular Session, 1961, requires the  
19           district to deliver bonds it issues to the attorney  
20           general for examination and approval. Section 10 also  
21           requires the attorney general to approve district  
22           bonds if the bonds were authorized under law. In  
23           addition, Section 10 provides that after approval the  
24           bonds must be registered with the comptroller and that  
25           after approval and registration the bonds are  
26           incontestable. The revised law omits those provisions  
27           as superseded by Chapter 1202, Government Code  
28           (enacted as Article 3, Chapter 53, Acts of the 70th  
29           Legislature, 2nd Called Session, 1987 (Article 717k-8,  
30           Vernon's Texas Civil Statutes), applicable to district  
31           bonds under Sections 1202.001 and 1202.003(c) of that  
32           code). Section 1202.003, Government Code, provides  
33           for approval of the bonds by the attorney general and  
34           requires the attorney general to submit the approved  
35           bonds to the comptroller for registration. Section

1 1202.005, Government Code, requires registration of  
2 the bonds by the comptroller. Section 1202.006,  
3 Government Code, provides that after approval and  
4 registration the bonds are incontestable and binding  
5 obligations. The omitted law reads:

6           Sec. 10. After any bonds (including  
7           refunding bonds) are authorized by the  
8           District, such bonds and the record  
9           relating to their issuance shall be  
10          submitted to the Attorney General for his  
11          examination as to the validity thereof. If  
12          he finds such bonds have been properly  
13          authorized in accordance with the  
14          Constitution and this Act he shall approve  
15          such bonds and the same then shall be  
16          registered by the Comptroller of Public  
17          Accounts. Thereafter the bonds shall be  
18          valid, binding and enforceable obligations  
19          of the District and shall be incontestable  
20          for any cause.

21           (7) Section 14, Chapter 364, Acts of the 57th  
22          Legislature, Regular Session, 1961, lists the entities  
23          for which district bonds are legal investments and  
24          provides that district bonds may secure deposits of  
25          public funds of the state or political subdivisions.  
26          The revised law omits the provision relating to the  
27          eligibility of district bonds to be considered as  
28          investments for various entities because it  
29          duplicates, in substance, Section 49.186(a), Water  
30          Code. While Section 14 lists "guardians" and Section  
31          49.186(a), Water Code, does not, Section 49.186(a)  
32          includes "fiduciaries," and a guardian is a fiduciary.  
33          The revised law omits the provision relating to the use  
34          of district bonds as security for deposits of state  
35          funds as impliedly repealed by Section 404.0221,  
36          Government Code (enacted in 1995), which lists  
37          eligible collateral for deposits of state funds by the  
38          comptroller, and by Section 404.031, Government Code  
39          (enacted in 1985 as Section 3.001, Article 4393-1,  
40          Vernon's Texas Civil Statutes), which provides for the  
41          valuation of that collateral. As to securing deposits

1 of other funds, the provision is impliedly repealed by  
2 Chapter 2257, Government Code (enacted in 1989 as  
3 Article 2529d, Vernon's Texas Civil Statutes), which  
4 governs eligible collateral for deposits of funds of  
5 other public agencies, including political  
6 subdivisions, and permits those deposits to be secured  
7 by obligations issued by conservation and reclamation  
8 districts. The omitted law reads:

9           Sec. 14. All bonds of the District  
10 shall be and are hereby declared to be legal  
11 and authorized investments for banks,  
12 saving banks, trust companies, building and  
13 loan associations, savings and loan  
14 associations, insurance companies,  
15 fiduciaries, trustees, guardians and  
16 sinking funds of cities, towns and  
17 villages, counties, school districts or  
18 other political subdivisions of the State  
19 of Texas, and for all public funds of the  
20 State of Texas, or its agencies including  
21 the State Permanent School Fund. Such bonds  
22 shall be eligible to secure deposit of any  
23 and all public funds of the State of Texas,  
24 and any and all public funds of cities,  
25 towns, villages, counties, school  
26 districts, or other political subdivisions  
27 or corporations of the State of Texas; and  
28 such bonds shall be lawful and sufficient  
29 security for said deposits to the extent of  
30 their value, when accompanied by all  
31 unmatured coupons appurtenant thereto.

32                           Revisor's Note  
33                           (End of Chapter)

34           (1) Section 4, Chapter 364, Acts of the 57th  
35 Legislature, Regular Session, 1961, provides that the  
36 board is not required to call a confirmation election  
37 or hold a hearing on the exclusion of land. The  
38 revised law omits the provision as executed. The  
39 provision is a transition provision addressing the  
40 applicability of provisions of the general law in  
41 effect at the time of the district's creation that  
42 would have required the district to hold both a  
43 confirmation election and a hearing on the exclusion  
44 of land. The omitted provision negates those general  
45 law requirements as inapplicable to this legislatively

1 created district. The power or duty to hold a hearing  
2 to exclude land subsequent to the creation of the  
3 district is governed by Subchapter J, Chapter 49,  
4 Water Code. The omitted law reads:

5           Sec. 4. . . . [it shall not be  
6           necessary for the Board of Directors] to  
7           call a confirmation election or [to hold] a  
8           hearing on the exclusion of lands or . . . .

9           (2) Section 17, Chapter 364, Acts of the 57th  
10          Legislature, Regular Session, 1961, provides that the  
11          act is severable. The revised law omits that provision  
12          because the same result is produced by application of  
13          Section 311.032, Government Code (Code Construction  
14          Act), which states 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. 17. . . . 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 here declares that  
22           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.