REVISOR'S REPORT

A NONSUBSTANTIVE REVISION
OF LOCAL LAWS RELATING TO
SPECIAL DISTRICTS

Submitted to the 89th Legislature
as part of the
Texas Legislative Council's
Statutory Revision Program

Austin, Texas
2025

FOREWORD

The Texas Legislative Council is required by Section 323.007, Government Code, to carry out a complete nonsubstantive revision of the Texas statutes. The process involves reclassifying and rearranging the statutes in a more logical order, eliminating repealed, invalid, duplicative, and other ineffective provisions while employing a format and numbering system that will accommodate future expansion of the law, and improving the draftsmanship of the statutes as practicable. The revision is intended to further the legislature's stated purpose of making the statutes "more accessible, understandable, and usable" without altering the sense, meaning, or effect of the law.

Under the classification scheme adopted by the Texas Legislative Council, the statutes will eventually consist of 27 codes, each governing a different subject matter. To date, the council has produced and the legislature has enacted the Agriculture Code, Alcoholic Beverage Code, Business & Commerce Code, Civil Practice and Remedies Code, Education Code, Election Code (a substantive revision), Estates Code, Finance Code, Government Code, Health and Safety Code, Human Resources Code, Insurance Code, Labor Code, Local Government Code, Natural Resources Code, Occupations Code, Parks and Wildlife Code, Property Code, Tax Code (Title 1 of which was a substantive revision), Transportation Code, Utilities Code, and Water Code. The 78th Legislature, Regular Session, 2003, enacted a Special District Local Laws Code of which the following revised laws form a part. The council's staff also assisted the state bar in the Business Organizations Code, Penal Code, and Family Code projects, which were substantive revisions, and revised miscellaneous criminal procedure provisions as Title 2 of the Code of Criminal Procedure. In addition, as part of its continuing statutory revision program, the council is carrying out a nonsubstantive revision of various portions of the Code of Criminal Procedure.

The revised local laws governing special districts included in this revision are placed into the Special District Local Laws Code enacted by the 78th Legislature, Regular Session, 2003, according to the structure established by that enactment. The Special District Local Laws Code is divided into titles by broad subject matter, subtitles by type of special district, chapters governing individual districts, subchapters for organization, and sections for distinct provisions of law. Sections are numbered decimally, with the number to the left of the decimal the same as the number of the chapter in which the section is contained. Because the code concerns a great number of individual special districts, the code is organized to provide a unique chapter number for each district whose governing laws have been revised. Gaps have been left in chapter and section numbering to accommodate later expansions of the law.

This revisor's report reflects the enactment of Chapter 203, Acts of the 89th Legislature, Regular Session, 2025, the Texas Legislative Council staff's revision of local laws governing various kinds of special districts in this state. The revisor's

report states the Revised Law, which is the text of the new law, and then provides the Source Law, which is the text of the former law from which the new law was derived. If further explanation of either the revised law or the source law is required, a Revisor's Note is included after the source law. All substance of the source law is revised in the revised law or the reason for its omission is explained in a revisor's note.

Note that this revision does not take effect until April 1, 2027, to provide all affected persons a complete legislative cycle to review the revision more closely.

Because of the extensive reorganization of many statutes, and even provisions within a statute, it may be helpful to refer to the source law for a given chapter as a whole, so that it may be read in its former context, and to refer to the disposition table, which shows where the former statutes, as revised, appear in this code. The disposition table is printed as Appendix C to the revisor's report.

The revision required a conforming amendment to a statute. The amendment, also enacted into law by Chapter 203, Acts of the 89th Legislature, Regular Session, 2025, is printed in Appendix A to the revisor's report. Appendix A also includes a section listing the laws repealed effective April 1, 2027, and a section stating the legislature's intent that the code be a nonsubstantive revision.

In reviewing this revisor's report, the reader should keep in mind that:

(1) Except as otherwise provided, Chapter 311, Government Code (Code Construction Act), applies to the code. That chapter sets out certain principles of statutory construction applicable to new codes and also provides some definitions. The chapter is printed as Appendix B to this report.

(2) The proposed code is written in modern American English. Where possible, the present tense is used, the active voice is used in preference to the passive voice, and the singular is used in preference to the plural.

(3) This is a nonsubstantive revision. The Texas Legislative Council staff's authority does not include improving the substance of the source law. The sole purpose of the revision is to compile all the relevant law, arrange it in a logical fashion, and rewrite it without altering its sense, meaning, or legal effect. If a particular source law statute is ambiguous and the ambiguity cannot be resolved without a potential substantive effect, the ambiguity is preserved.

This revision project is under the direction of John Garza, Legislative Counsel, of the Texas Legislative Council's legal division staff. Questions may be directed to Mr. Garza at P.O. Box 12128, Capitol Station, Austin, Texas 78711-2128, or by telephone at (512) 463-1151.

SPECIAL DISTRICT LOCAL LAWS CODE

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SUBTITLE A. NAVIGATION DISTRICTS AND PORT AUTHORITIES

CHAPTER 5008. WILLACY COUNTY NAVIGATION DISTRICT

TITLE 6. WATER AND WASTEWATER

SUBTITLE G. RIVER AUTHORITIES

CHAPTER 8512. GUADALUPE-BLANCO RIVER AUTHORITY

CHAPTER 8515. UPPER GUADALUPE RIVER AUTHORITY

SUBTITLE I. WATER CONTROL AND IMPROVEMENT DISTRICTS

CHAPTER 9092. FRANKLIN COUNTY WATER DISTRICT

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TITLE 5. TRANSPORTATION

SUBTITLE A. NAVIGATION DISTRICTS AND PORT AUTHORITIES

CHAPTER 5008. WILLACY COUNTY NAVIGATION DISTRICT

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CHAPTER 5008. WILLACY COUNTY NAVIGATION DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 5008.0101. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of navigation and canal commissioners.

(2) "Commissioner" means a board member.

(3) "District" means the Willacy County Navigation District. (Acts 53rd Leg., R.S., Ch. 404, Sec. 1A.)

Source Law

Sec. 1A. In this Act:

(1) "Board" means the board of navigation and canal commissioners of the district.

(2) "Commissioner" means a member of the board.

(3) "District" means the Willacy County Navigation District.

Revised Law

Sec. 5008.0102. FINDINGS OF PURPOSE. The creation of the district is essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution. (Acts 53rd Leg., R.S., Ch. 404, Sec. 8 (part).)

Source Law

Sec. 8. . . . the Legislature hereby declares that the creation of said District is essential to the accomplishment of the purposes set forth in Article XVI, Section 59 of the Constitution of Texas, and . . . .

Revisor's Note

Section 8, Chapter 404, Acts of the 53rd Legislature, Regular Session, 1953, provides that "the Legislature hereby declares" the creation of the district is essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution. The revised law omits the quoted language as executed.

SUBCHAPTER B. DISTRICT ADMINISTRATION

Revised Law

Sec. 5008.0201. BOARD OF COMMISSIONERS; TERM. (a) The board consists of five elected commissioners.

(b) Commissioners serve staggered four-year terms. (Acts 53rd Leg., R.S., Ch. 404, Secs. 1B(c) (part), (d).)

Source Law

(c) The board consists of five commissioners.

[One commissioner is] elected [from each single-member district, and one commissioner is] elected [from the district at large.]

(d) Commissioners serve staggered four-year terms.

Revised Law

Sec. 5008.0202. ELECTION OF COMMISSIONERS. (a) The district is divided into four numbered single-member districts for electing commissioners.

(b) The board may revise the single-member districts as necessary or appropriate.

(c) One commissioner is elected from each single-member district, and one commissioner is elected from the district at large.

(d) The board shall hold an election on the uniform election date in November of each even-numbered year to elect the appropriate number of commissioners. (Acts 53rd Leg., R.S., Ch. 404, Secs. 1B(a), (b), (c) (part), 1C.)

Source Law

Sec. 1B. (a) The board shall divide the territory of the district into four numbered single-member districts for electing commissioners.

(b) The board may revise the single-member districts as necessary or appropriate.

(c) . . . One commissioner is elected from each single-member district, and one commissioner is elected from the district at large.

Sec. 1C. The board shall hold an election to elect the appropriate number of commissioners on the uniform election date in November of each even-numbered year.

Revisor's Note

Section 1B(a), Chapter 404, Acts of the 53rd Legislature, Regular Session, 1953, provides that the board "shall divide" the district into four numbered single-member districts for electing commissioners. The revised law substitutes "is divided into" for the quoted language because the requirement that the board divide the district into numbered districts is executed.

Revised Law

Sec. 5008.0203. PRESIDING OFFICER. The commissioner elected from the district at large serves as the board's presiding officer. (Acts 53rd Leg., R.S., Ch. 404, Sec. 1B(e).)

Source Law

> (e) The commissioner elected from the district at large serves as the presiding officer of the board.

Revised Law

Sec. 5008.0204. GENERAL MANAGER OR PORT DIRECTOR. (a) The board may:

(1) employ a general manager or port director; and

(2) give the manager or director full administrative authority to manage and operate the district's affairs, subject only to the board's supervision.

(b) The board shall set the term of office and compensation of the general manager or port director. (Acts 53rd Leg., R.S., Ch. 404, Sec. 6.)

Source Law

> Sec. 6. The Navigation and Canal Commissioners of such District may employ a general manager or port director and give him full administrative authority in the management and operation of the affairs of the District, subject only to the supervision of the Board of Navigation and Canal Commissioners. The term of office and compensation to be paid to such manager or director shall be fixed by the Board.

Revisor's Note

Section 6, Chapter 404, Acts of the 53rd Legislature, Regular Session, 1953, provides that the term of office and compensation of the general manager or port director shall be "fixed" by the board. The revised law substitutes "set" for "fix" because, in context, the terms have the same meaning and "set" is more commonly used.

Revisor's Note
(End of Subchapter)

Section 2, Chapter 892, Acts of the 81st Legislature, Regular Session, 2009, contains

transition provisions relating to the division of the district into four numbered single-member districts, the terms of office of the commissioners serving on the day before the effective date of Chapter 892, the election of successor commissioners after the effective date of Chapter 892, and the terms of office of the commissioners elected at those elections. The revised law omits those provisions as executed because the district has been divided into numbered districts, the terms of office of the commissioners serving on the day before the effective date of Chapter 892 have expired, the specified elections of successor commissioners have been held, and the terms of office of the commissioners elected at those elections have expired. The omitted law reads:

> Sec. 2. (a) In this section, "board," "commissioner," and "district" have the meanings assigned by Section 1A, Chapter 404, Acts of the 53rd Legislature, Regular Session, 1953, as added by this Act.
>
> (b) Not later than June 1, 2010, the board shall divide the territory of the district into four numbered single-member districts as required by Section 1B, Chapter 404, Acts of the 53rd Legislature, Regular Session, 1953, as added by this Act.
>
> (c) A commissioner of the district who is serving on the day before the effective date of this Act shall serve until a successor qualifies following an election under Subsection (d) of this section.
>
> (d) On the uniform election date in November 2010, the board shall hold an election to elect one at-large commissioner and four commissioners from single-member districts.
>
> (e) The five commissioners elected under Subsection (d) of this section shall draw lots to determine which two commissioners shall serve a term expiring December 1, 2012, and which three commissioners shall serve a term expiring December 1, 2014.
>
> (f) On the uniform election date in November 2012, the board shall hold an election to elect two commissioners to terms of four years.
>
> (g) On the uniform election date in 2014, the board shall hold an election to elect three commissioners to terms of four years.

SUBCHAPTER C. POWERS AND DUTIES

Revised Law

Sec. 5008.0301. AUTHORITY TO ACQUIRE AND LEASE LAND; EMINENT DOMAIN. (a) The district may own land adjacent or accessible to the navigable water in the district, whether acquired by gift, purchase, or exercise of the power of eminent domain.

(b) The district may:

(1) lease all or any part of land the district owns for any term the board considers prudent or advisable to:

(A) an individual;

(B) a corporation; or

(C) a government or governmental agency, including this state or the United States; and

(2) charge a reasonable toll, fee, rent, or other charge for the lease.

(c) This section does not prevent the district from granting a revocable license or permit for the use of a limited portion of a waterfront facility or land the district owns for a purpose consistent with the development of the district's property.

(d) The district's authority under this section to exercise the power of eminent domain expired on September 1, 2013, unless the district submitted a letter to the comptroller in accordance with Section 2206.101(b), Government Code, not later than December 31, 2012. (Acts 53rd Leg., R.S., Ch. 404, Sec. 1 (part); Acts 55th Leg., R.S., Ch. 141, Sec. 1 (part); New.)

Source Law

[Acts 53rd Leg., R.S., Ch. 404]

> Sec. 1. Willacy County Navigation District, . . . shall have the right, power and authority to own lands adjacent or accessible to the navigable waters within the District, whether acquired by gift, purchase, or condemnation, and may lease same to any individual, corporation, or municipal body, public or private, any government or governmental agency, including the State of Texas, or the United States of America, . . . charge therefor reasonable tolls, fees, rents or other charges. Nothing herein shall be construed as preventing said navigation districts from granting revocable licenses or permits for the use of limited portion of water front facilities or lands owned by the District for the purposes consistent with

the development of the navigation district properties.

[Acts 55th Leg., R.S., Ch. 141]

Sec. 1. The Willacy County Navigation District, . . . shall have the power and authority to lease all or any part of lands owned by it to any individual, corporation, or municipal body, private or public, any government or governmental agency, including the State of Texas, or the United States of America, for such term as may be deemed prudent or advisable by the Board of Navigation and Canal Commissioners of said District, and charge reasonable rents therefor.

Revisor's Note

(1) Section 1, Chapter 404, Acts of the 53rd Legislature, Regular Session, 1953, and Section 1, Chapter 141, Acts of the 55th Legislature, Regular Session, 1957, each provide that the district was "heretofore created by order of the Commissioners Court of Willacy County" under authority granted by general law. The revised law omits the provisions as executed. The omitted law reads:

> [Acts 53rd Leg., R.S., Ch. 404]
>
> Sec. 1. [Willacy County Navigation District,] heretofore created by order of the Commissioners Court of Willacy County under authority of Article 8263h, Vernon's Texas Civil Statutes, ...
>
> [Acts 55th Leg., R.S., Ch. 141]
>
> Sec. 1. [The Willacy County Navigation District,] heretofore created by order of the Commissioners Court of Willacy County on February 17, 1948, which order appears of record in Book 5, page 277 et seq., of the minutes of said court, under the authority of Article 8263h, Vernon's Texas Civil Statutes, and . . . .

(2) Section 1, Chapter 404, Acts of the 53rd Legislature, Regular Session, 1953, provides that the district may own land acquired "by . . . condemnation." The revised law substitutes "by . . . exercise of the power of eminent domain" for the quoted language because the phrases have the same meaning and the latter phrase is consistent with modern usage in laws relating to eminent domain.

(3) Section 1, Chapter 404, Acts of the 53rd Legislature, Regular Session, 1953, provided the

district eminent domain authority. Section 2206.101, Government Code, required an entity with eminent domain authority to submit a letter with certain information to the comptroller not later than December 31, 2012, to prevent the entity's eminent domain authority from expiring on September 1, 2013. To avoid the appearance that this revision recognizes authority that the district may not possess at the time of the revision, the revised law includes a provision setting out the requirements of Section 2206.101, Government Code.

(4) Section 1, Chapter 404, Acts of the 53rd Legislature, Regular Session, 1953, provides that the district may lease land the district owns "to any individual, corporation, or municipal body, public or private, any government or governmental agency, including the State of Texas, or the United States of America." Similarly, Section 1, Chapter 141, Acts of the 55th Legislature, Regular Session, 1957, provides that the district may lease land the district owns "to any individual, corporation, or municipal body, private or public, any government or governmental agency, including the State of Texas, or the United States of America." The revised law omits "municipal body" as included in the meaning of "government or governmental agency." The revised law omits "public or private" and "private or public" as unnecessary because "corporation" is the only term that those phrases can reasonably be read to modify and the term "corporation" includes both publicly held and privately held corporations. In addition, to the extent the reference to a "public" corporation is intended to describe a county, municipality, or special purpose district, the term "government or

governmental agency" includes such a public corporation.

(5) Section 1, Chapter 404, Acts of the 53rd Legislature, Regular Session, 1953, provides that the district may lease land the district owns for a period not to exceed 30 years. The revised law omits that provision because it was repealed by Section 3, Chapter 141, Acts of the 55th Legislature, Regular Session, 1957, which repealed all "laws or parts of laws that conflict with" Chapter 141. Section 1 of Chapter 141 provides that the district may lease land it owns for any term the board considers prudent or advisable. The omitted law reads:

> Sec. 1. [Willacy County Navigation District . . . shall have the right, power and authority to own lands . . . and may lease same] . . . said leases, contracts, or franchises to not exceed a period of thirty (30) years, and . . . .

(6) Section 1, Chapter 141, Acts of the 55th Legislature, Regular Session, 1957, provides that the district was granted additional powers by Chapter 404, Acts of the 53rd Legislature, Regular Session, 1953. The provisions of Chapter 404 granting additional powers to the district are revised in this chapter. The revised law omits the reference to those provisions as unnecessary because they apply to the district on their own terms. The omitted law reads:

> Sec. 1. [The Willacy County Navigation District,] . . . granted additional powers by Chapter 404, Acts 1953, 53rd Legislature, ...

Revised Law

Sec. 5008.0302. AUTHORITY TO SELL LAND. The district may sell any part of land the district owns to any government or governmental agency, including this state or the United States, for any amount of money the board considers prudent and advisable if the board considers the sale necessary and advisable for the proper

development of the port. (Acts 55th Leg., R.S., Ch. 141, Sec. 2.)

Source Law

> Sec. 2. The said District, as owner of said land, shall have the power and authority to sell to any government or governmental agency, including the State of Texas, or the United States of America, any portion of its lands, for such sum of money as is deemed prudent and advisable by the Board of Navigation and Canal Commissioners of said District, provided the said Board of Navigation and Canal Commissioners deem such sale necessary and advisable for the proper development of the port.

Revisor's Note

Section 2, Chapter 141, Acts of the 55th Legislature, Regular Session, 1957, provides that the district "shall have the power and authority" to sell land the district owns. Throughout this chapter, the revised law substitutes "may" for the quoted and similar language because, in context, the language has the same meaning and "may" is more commonly used.

Revised Law

Sec. 5008.0303. AUTHORITY TO LEASE OR GRANT EASEMENTS FOR CERTAIN PURPOSES. The district may, for causeway, road, or public utility purposes, lease, or grant an easement over or along, any real property the district owns or holds in fee simple or by patent, easement, or otherwise to:

(1) an individual;

(2) a corporation; or

(3) a government or governmental entity, including this state or the United States. (Acts 55th Leg., R.S., Ch. 141, Sec. 1a.)

Source Law

> Sec. 1a. The said District shall have the power and authority to lease and/or grant easements to any individual, corporation or municipal body, private or public, any government or governmental agency, including the State of Texas, or the United States of America, over and along all real property owned and/or held by said District in fee simple, by patent, easement or otherwise, for causeway, road and public utility purposes.

Revisor's Note

Section 1a, Chapter 141, Acts of the 55th Legislature, Regular Session, 1957, provides that the district may lease or grant easements "to any individual, corporation or municipal body, private or public, any government or governmental agency, including the State of Texas, or the United States of America." The revised law omits "municipal body" and "private or public" for the reasons stated in Revisor's Note (4) to Section 5008.0301.

Revised Law

Sec. 5008.0304. CONVEYANCE AND ACQUISITION OF CERTAIN PROPERTY. (a) This section applies only to property, including land or an interest in land, that:

(1) the district owns;

(2) the United States desires to enable a United States department or establishment to carry out the provisions of an act of Congress in aid of navigation, flood control, or improvement of water courses in aid of navigation; and

(3) may be necessary for the construction, operation, and maintenance of works required for a purpose described by Subdivision (2).

(b) The district may:

(1) on the request of the United States, convey title or an easement to property, including land or an interest in land, to the United States with or without monetary consideration; and

(2) acquire land or a right-of-way necessary to carry out the provisions or meet the conditions of an act of Congress described by Subsection (a). (Acts 53rd Leg., R.S., Ch. 404, Sec. 2.)

Source Law

Sec. 2. Said District as the owner of any property, land or interest in land desired by the United States of America to enable any Department or establishment thereof to carry out the provisions of any Act of Congress in aid of navigation, flood control

or improvement of water courses in aid of navigation, is hereby authorized and empowered, upon request by the United States through its proper officers for conveyance of title or easement to any part of such property, land, or interest in land, which may be necessary for the construction, operation and maintenance of such works, to convey the same with or without monetary consideration therefor to the United States of America, and such Navigation District is hereby specifically authorized to acquire such necessary lands and right of ways in order to carry out provisions or meet the conditions of such Act of Congress.

Revisor's Note

(1) Section 2, Chapter 404, Acts of the 53rd Legislature, Regular Session, 1953, refers to "property, land or interest in land." The revised law substitutes "property, including land or an interest in land," for the quoted language because under Section 311.005(4), Government Code (Code Construction Act), the definition of "property" includes real property, and "land" and "an interest in land" are included in the meaning of real property.

(2) Section 2, Chapter 404, Acts of the 53rd Legislature, Regular Session, 1953, authorizes the district, on request by the United States "through its proper officers," to convey to the United States title or an easement to certain district property. The revised law omits the quoted language as unnecessary because the acquisition by the United States of title or an easement to district property presupposes that the acquisition will be conducted by the proper federal officials.

Revised Law

Sec. 5008.0305. ENTRY ON PROPERTY. District commissioners, engineers, and employees may enter any land in the district to attend to any district business, including to examine the land and to make plans, surveys, maps, and profiles for improvements contemplated by the district. (Acts 53rd Leg., R.S., Ch. 404, Sec. 3.)

Source Law

Sec. 3. The Navigation and Canal Commissioners of said District, and the engineers and employees of said District, from the time of their appointment, are hereby authorized to go upon any lands lying within said District for the purpose of examining the same, making plans, surveys, maps and profiles, for improvements contemplated by the District and to attend to any business of the District.

Revisor's Note

(1) Section 3, Chapter 404, Acts of the 53rd Legislature, Regular Session, 1953, provides that district engineers and employees may enter land in the district "from the time of their appointment." The revised law omits the quoted language as unnecessary because a person is not a district engineer or employee until the person is appointed as such, and therefore the phrase does not add to the clear meaning of the law.

(2) Section 3, Chapter 404, Acts of the 53rd Legislature, Regular Session, 1953, lists various purposes for which district commissioners, engineers, and employees may enter land in the district, and further states that entry upon the land may be made "to attend to any business of the [d]istrict." The revised law adds "including" before the list of various purposes for which land in the district may be entered and places that list after the authorization to enter the land "to attend to any district business" because each item in the list is a subset of "any district business."

Revised Law

Sec. 5008.0306. POWERS REGARDING PUBLIC AIRPORTS. (a) The district, in carrying out the district's powers and functions under the constitution and statutes of this state, may:

(1) plan, acquire, own, control, protect, develop, maintain, and operate, or arrange by lease or contract for the

operation of, a public airport; and

(2) exercise for a purpose described by Subdivision (1) any powers granted to the district for other port purposes.

(b) The district may:

(1) enter into grant agreements with the United States to obtain federal grant-in-aid money for public airport purposes; and

(2) accept, receive, disburse, and spend the money for the purposes, and in accordance with the time and conditions, provided by the applicable grant agreements. (Acts 56th Leg., R.S., Ch. 392, Secs. 1, 2.)

Source Law

> Sec. 1. In carrying out its powers and functions under the Constitution and other Statutes of the State of Texas, the Willacy County Navigation District shall have authority to plan, acquire, own, control, protect, develop, maintain, and operate, or arrange by lease or contract for the operation of, public airports and may exercise for such purposes any of the powers heretofore or hereafter granted it for other port purposes.
>
> Sec. 2. The Willacy County Navigation District is hereby authorized to enter into grant agreements with the United States for the purpose of obtaining Federal grant-in-aid funds for public airport purposes and shall have the power to accept, receive, disburse, and expend such funds for such purposes, and upon such time and conditions, as may be provided in the grant agreements applicable thereto.

Revisor's Note

(1) Section 1, Chapter 392, Acts of the 56th Legislature, Regular Session, 1959, refers to powers "heretofore or hereafter" granted to the district. The revised law omits the quoted language as unnecessary because it is not a limitation and encompasses any possible period. The revised law plainly refers to powers regardless of the time the powers were granted.

(2) Section 2, Chapter 392, Acts of the 56th Legislature, Regular Session, 1959, authorizes the district to enter into agreements to obtain certain federal "funds." The revised law substitutes "money"

for "funds" because, in context, the terms have the same meaning and "money" is more commonly used.

Revised Law

Sec. 5008.0307. LAW ENFORCEMENT AND SECURITY SERVICES. The board may:

(1) employ and set the compensation of security personnel to protect the district's property; or

(2) pay all or a part of the compensation of a deputy sheriff of Willacy County or a deputy constable of any precinct in which the district owns navigation facilities for special services provided to the district in policing the district's property and enforcing state laws in the district's territory. (Acts 53rd Leg., R.S., Ch. 404, Sec. 7.)

Source Law

> Sec. 7. The Board of Navigation and Canal Commissioners shall be authorized to employ, and fix the compensation of, watchmen to protect the property of the District. Said Board, in the alternative, may pay all or a part of the compensation of a deputy sheriff of Willacy County or a deputy constable of any precinct in which the District owns navigation facilities, for special services rendered the District in policing its properties and enforcing State laws within the District.

Revisor's Note

(1) Section 7, Chapter 404, Acts of the 53rd Legislature, Regular Session, 1953, provides that the board has the authority to "fix" the compensation of "watchmen." The revised law substitutes "set" for "fix" for the reason stated in the revisor's note to Section 5008.0204.

(2) Section 7, Chapter 404, Acts of the 53rd Legislature, Regular Session, 1953, provides that the board has the authority to employ "watchmen." The revised law substitutes "security personnel" for "watchmen" because, in context, the terms have the same meaning and the former is more commonly used and is gender neutral.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Revised Law

Sec. 5008.0401. AD VALOREM TAX FOR MAINTENANCE AND OPERATIONS. (a) The board may impose an ad valorem tax at a rate not to exceed 20 cents on each $100 valuation of taxable property in the district for the maintenance and operation of the district and the district's properties.

(b) The tax at its authorized rate must be imposed in the manner prescribed for bond taxes under Subchapter E, subject to the limit prescribed by Subsection (a). (Acts 53rd Leg., R.S., Ch. 404, Sec. 5 (part).)

Source Law

> Sec. 5. . . . said Board shall be authorized to levy and cause to be collected a tax at a rate not exceeding twenty cents (20¢) on each One Hundred Dollar ($100) valuation of taxable property within said District for the further maintenance and operation of the District and its properties. . . . the authorized rate of tax, within the maximum herein prescribed, shall be levied, certified and collected in the same manner prescribed for bond taxes in the next preceding Section.

Revisor's Note

(1) Section 5, Chapter 404, Acts of the 53rd Legislature, Regular Session, 1953, provides that the board may "levy and cause to be collected" an ad valorem tax on taxable property in the district and provides that the ad valorem tax shall be "levied, certified and collected" in the same manner prescribed for bond taxes. Throughout this chapter, the revised law substitutes "impose" for "levy," "certify," "collect," and similar terms because "impose" is the term generally used in Title 1, Tax Code, and includes the levying, certification, and collection of a tax.

(2) Section 5, Chapter 404, Acts of the 53rd Legislature, Regular Session, 1953, authorizes the board to impose a tax based on the value of the taxable property in the district. The revised law specifies

that the tax is an "ad valorem" tax because it is clear from the source law that the tax is a property tax and "ad valorem" tax is the term most commonly used in Texas law to refer to a tax on property.

(3) Section 5, Chapter 404, Acts of the 53rd Legislature, Regular Session, 1953, provides that the district may impose a tax for the "further" maintenance and operation of the district. The revised law omits the quoted term because it is unnecessary and does not add to the clear meaning of the law. To the extent the term is intended to refer to a maintenance and operations tax the district is authorized to impose that is in addition to another such tax the district is authorized to impose elsewhere in Chapter 404, the term is unnecessary because no other provision of Chapter 404 authorizes the district to impose a maintenance and operations tax. To the extent the term is intended to imply that the revenue from a maintenance and operations tax the district is authorized to impose under Chapter 404 may be combined with other district revenue and used to maintain and operate the district, the term does not add to the clear meaning of the law because the revenue from the maintenance and operations tax is necessarily cumulative of revenue the district receives from any other source that may be used for that purpose.

Revisor's Note
(End of Subchapter)

Section 5, Chapter 404, Acts of the 53rd Legislature, Regular Session, 1953, provides that the board may call an election to authorize the imposition of a maintenance and operations tax. Because an election to authorize the imposition of a maintenance and operations tax was held and a majority of the

voters approved the imposition of the tax, the revised law omits that provision as executed. The omitted law reads:

> Sec. 5. The Board of Navigation and Canal Commissioners shall be authorized to call an election for the purpose of submitting to the qualified electors of said District who own taxable property within said District and who have duly rendered the same for taxation the proposition of whether or not [said Board shall be authorized to levy and cause to be collected a tax at a rate not exceeding twenty cents (20¢) on each One Hundred Dollar ($100) valuation of taxable property within said District for the further maintenance and operation of the District and its properties.] Said election shall be called, notice thereof given and the results declared by the Board of Commissioners in the manner prescribed in the next preceding Section hereof for bond elections, and . . . .

SUBCHAPTER E. BONDS

Revised Law

Sec. 5008.0501. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to bonds payable from both ad valorem taxes and district revenue. (New.)

Revisor's Note

The revised law adds an applicability provision for the convenience of the reader and to avoid frequent, unnecessary repetition of the statement that provisions of law revised as this subchapter apply only to a particular class of district bonds. Section 4, Chapter 404, Acts of the 53rd Legislature, Regular Session, 1953, revised in relevant part as this subchapter, applies only to bonds payable from both ad valorem taxes and district revenue.

Revised Law

Sec. 5008.0502. NOTICE OF ELECTION. (a) Instead of any other notice required by law, notice of an election to issue bonds must be published once a week for two consecutive weeks in a newspaper of general circulation in the district and must state:

(1) the date of the election;

(2) the place at which the election will be held; and

(3) the proposition to be voted on at the election.

(b) The first publication under Subsection (a) must be at least 14 days before the date of the election. (Acts 53rd Leg., R.S., Ch. 404, Sec. 4 (part).)

Source Law

> Sec. 4. . . . [no bonds payable from ad valorem taxes as well as revenues from District operations shall be issued until the same have been authorized at an election] . . . In lieu of all other notices required by law, notice of such bond election stating the date, place or places where said election will be held, and the proposition to be voted upon, shall be published once a week for two (2) consecutive weeks in a newspaper of general circulation within said District, the first of said publications to be not less than fourteen (14) days prior to the date of said election. . . .

Revised Law

Sec. 5008.0503. FORM OF BONDS. Bonds authorized at an election must be:

(1) issued by board order; and

(2) signed by the board's presiding officer and secretary. (Acts 53rd Leg., R.S., Ch. 404, Sec. 4 (part).)

Source Law

> Sec. 4. . . . After being authorized at said election, said bonds shall be issued by order of the Board of Navigation and Canal Commissioners, shall be signed by the Chairman and Secretary of said Board, and . . . .

Revisor's Note

(1) Section 4, Chapter 404, Acts of the 53rd Legislature, Regular Session, 1953, provides that bonds issued under that section must be signed by the "Chairman" of the district's board. The revised law substitutes "presiding officer" for "Chairman" for consistency with Section 1B(e) of Chapter 404, revised as Section 5008.0203 of this chapter, which refers to the "presiding officer" of the district's board.

(2) Section 4, Chapter 404, Acts of the 53rd

Legislature, Regular Session, 1953, provides that bonds issued under that section must bear the district's seal. The revised law omits that provision as impliedly repealed by Section 3, Bond Procedures Act of 1981 (Article 717k-6, Vernon's Texas Civil Statutes) (revised in relevant part in 1999 as Section 1201.026(a), Government Code), which provides that bonds may be signed with or without a seal. Chapter 1201, Government Code, applies to district bonds under Sections 1201.002 and 1201.003 of that code. The omitted law reads:

> Sec. 4. . . . [After being authorized at said election, said bonds shall be issued . . . and] the seal of said District shall be impressed upon each of said bonds. . . .

Revised Law

Sec. 5008.0504. TAXES FOR BONDS. (a) If bonds are issued, the board shall impose an ad valorem tax on all taxable property in the district in each year during which the bonds are outstanding and unpaid.

(b) The board shall impose the tax at the rate necessary to generate an amount of revenue which, together with the net revenue in the interest and sinking fund for the bonds at that time, is sufficient to pay the principal of and interest on the bonds that will be due during the next fiscal year.

(c) The board shall certify to the Willacy County tax assessor-collector the rate of the tax imposed for the bonds.

(d) The Willacy County tax assessor-collector shall:

(1) collect the bond taxes in the same manner provided by law for the collection of other district taxes; and

(2) remit all taxes collected to:

(A) the county treasurer of Willacy County; or

(B) the district's account. (Acts 53rd Leg., R.S., Ch. 404, Sec. 4 (part).)

Source Law

Sec. 4. . . .

When bonds payable from ad valorem taxes as well as revenues have been issued, it shall be the duty of the Board of Navigation and Canal Commissioners of said District each year while any part of said bonds remain outstanding and unpaid, to levy taxes upon all taxable property within said District which, together with net revenues then on hand and deposited in the Interest and Sinking Fund of said bonds, will be sufficient to pay the principal and interest coming due on said bonds during the next fiscal year. The Board of Navigation and Canal Commissioners shall certify to the Tax Assessor-Collector of Willacy County the rate of tax levied for said bonds and it shall be the duty of said Tax Assessor-Collector to collect said taxes in the same manner provided by law for the collection of other taxes by said District and to remit all taxes collected to the County Treasurer of Willacy County or the account of said District.

Revisor's Note

(1) Section 4, Chapter 404, Acts of the 53rd Legislature, Regular Session, 1953, requires the board to impose a tax when bonds "payable from ad valorem taxes as well as revenues" have been issued. The revised law omits the quoted language as unnecessary because Section 5008.0501 of this chapter provides that the provisions of this subchapter apply only to bonds payable from both ad valorem taxes and district revenue.

(2) Section 4, Chapter 404, Acts of the 53rd Legislature, Regular Session, 1953, requires the board to impose a tax on all taxable property in the district when district bonds are outstanding. The revised law specifies that the tax is an "ad valorem" tax for the reason stated in Revisor's Note (2) to Section 5008.0401.

Revisor's Note
(End of Subchapter)

(1) Section 4, Chapter 404, Acts of the 53rd Legislature, Regular Session, 1953, provides that the board may elect to further secure revenue bonds that the district is authorized to issue under general law

by imposing an ad valorem tax, provided that the bonds and the imposition of taxes in payment of the bonds are approved by a majority of the voters of the district voting at an election held for that purpose. The revised law omits that provision because it duplicates, in substance, Sections 60.331 and 60.332, Water Code, applicable to the district under Section 60.001 of that code. Section 60.331, Water Code, authorizes the governing body of a navigation district to issue tax bonds, revenue bonds, and bonds secured by a combination of revenue and taxes. Section 60.332, Water Code, requires navigation district bonds that are wholly or partly secured by ad valorem taxes to be authorized at an election held in the district for that purpose. The omitted law reads:

> Sec. 4. In all cases where said District is now authorized by any statute of this State to issue revenue bonds payable solely from the revenues from properties acquired or to be acquired by said District, such bonds may, at the option of the Board of Navigation and Canal Commissioners of the District, be further secured by the levy of ad valorem taxes upon all taxable property within said District; provided, that no bonds payable from ad valorem taxes as well as revenues from District operations shall be issued until the same have been authorized at an election to be called by the Board of Navigation and Canal Commissioners at which a majority of the qualified electors of said District who own taxable property within said District and who have duly rendered the same for taxation, voting at said election, have voted in favor of the issuance of said bonds and the levy of taxes in payment thereof. . . .

(2) Section 4, Chapter 404, Acts of the 53rd Legislature, Regular Session, 1953, provides "substantially" the wording of the proposition that must appear on the ballot at an election to authorize the issuance of certain bonds by the district and the manner in which the proposition must be printed on the ballot. The revised law omits the provision as

superseded by Sections 52.072 and 52.073, Election Code (enacted in 1985), applicable to the district under Section 1.002 of that code. Section 52.072, Election Code, governs ballot propositions and provides that the authority ordering the election shall prescribe the wording of the proposition that is to appear on a ballot and that the proposition must be a single statement that appears on the ballot only once. Section 52.073, Election Code, prescribes the manner in which the proposition is printed on the ballot. The omitted law reads:

> Sec. 4. . . . In the event bonds are to be payable from both net revenues and ad valorem taxes, the proposition to appear upon the ballot shall be substantially as follows: 'For the issuance of bonds, the pledge of net revenues and the levy of taxes adequate to provide for the payment thereof,' and the contrary thereof. . . .

(3) Section 4, Chapter 404, Acts of the 53rd Legislature, Regular Session, 1953, provides that before bonds may be finally issued by the district under that section, the bonds must be submitted to the attorney general for approval and registered by the comptroller of public accounts. Section 4 also provides that, after approval, registration, and sale, district bonds are incontestable except for forgery or fraud. The revised law omits those provisions as duplicative of or superseded by Chapter 1202, Government Code (enacted as Article 3, Chapter 53, Acts of the 70th Legislature, 2nd Called Session, 1987 (Article 717k-8, Vernon's Texas Civil Statutes)), applicable to district bonds under Sections 1202.001 and 1202.003(c) of that code. Section 1202.003, Government Code, provides for approval of bonds by the attorney general and requires the attorney general to submit the approved bonds to the comptroller for

registration. Section 1202.005, Government Code, requires registration of the bonds by the comptroller. Section 1202.006, Government Code, provides that after approval and registration the bonds are incontestable for any reason. The omitted law reads:

> Sec. 4. . . . Before being finally issued, said bonds shall be submitted to the Attorney General of Texas for approval as to legality and to the Comptroller of Public Accounts of Texas for registration. When said bonds have been approved by the Attorney General, registered by the Comptroller and sold by the Board of Navigation and Canal Commissioners, they shall be incontestable except for forgery or fraud. . . .

(4) Section 4, Chapter 404, Acts of the 53rd Legislature, Regular Session, 1953, provides that bonds issued under that section are legal and authorized investments for insurance companies in the same manner and to the same extent as bonds of a county or municipality. The revised law omits that provision as superseded by Section 1201.041, Government Code (enacted as Section 9, Bond Procedures Act of 1981 (Article 717k-6, Vernon's Texas Civil Statutes)), applicable to district bonds under Sections 1201.002 and 1201.003 of that code. The omitted law reads:

> Sec. 4. . . . Said bonds shall be legal and authorized investments for insurance companies in this State in the same manner and to the same extent as bonds or other interest-bearing evidences of indebtedness of any counties, cities or other municipalities of this State. . . .

Revisor's Note
(End of Chapter)

(1) Sections 8 and 8(a), Chapter 404, Acts of the 53rd Legislature, Regular Session, 1953, respectively, validate, ratify, confirm, and approve the actions, orders, and procedures of the Commissioners Court of Willacy County in creating and establishing the district and all bonds issued by the

district and provide that the act does not apply to pending litigation involving the validity of the creation and establishment of the district or bonds issued by the district. Sections 1 and 2, Chapter 135, Acts of the 54th Legislature, Regular Session, 1955, respectively, validate all bonds issued by the district, all proceedings relating to those bonds, and all governmental proceedings and acts performed by the Commissioners Court of Willacy County and by the district's board and officers relating to the district and provide that the act does not apply to pending litigation involving the organization of the district or the validity of bonds issued by the district.

The revised law omits those provisions because they served their purpose on the day they took effect and are executed law. Section 311.031(a)(2), Government Code (Code Construction Act), provides that the repeal of a statute does not affect any validation previously made under the statute. Therefore, the omission of the executed validation provisions does not affect those validations. The omitted law reads:

> [Acts 53rd Leg., R.S., Ch. 404]
>
> Sec. 8. All acts, orders and procedures of the Commissioners Court of Willacy County in creating and establishing said Willacy County Navigation District are hereby validated, ratified, confirmed and approved, and . . . said District, with the boundaries established by said Commissioners Court and all bonds herebefore issued by said District are hereby in all things validated, ratified, confirmed and approved.
>
> Sec. 8(a). Nothing in this Act shall be construed to apply to any suit or claims in litigation now pending, which directly or indirectly questions the validity of any orders and procedures creating and establishing the Willacy County Navigation District, or any bonds herebefore issued by said District.
>
> [Acts 54th Leg., R.S., Ch. 135]
>
> Sec. 1. Willacy County Navigation District is hereby in all things validated, and all bonds heretofore issued by said

> District (whether tax bonds, revenue bonds, or tax-revenue bonds) and all proceedings relating to said bonds are hereby in all things validated, and all governmental proceedings and acts performed by the Commissioners Court of Willacy County and by the District's Board of Navigation and Canal Commissioners and other officers thereof, relating to said District, are hereby in all things validated.
>
> Sec. 2. Nothing in this Act shall be construed to apply to any litigation now pending questioning the legality of the organization of said District or litigation now pending questioning the validity of bonds issued by the District.

(2) Section 9, Chapter 404, Acts of the 53rd Legislature, Regular Session, 1953, and Section 2, Chapter 654, Acts of the 60th Legislature, Regular Session, 1967, provide that the act is cumulative of other laws pertaining to the district and that, to the extent that the provisions of the act conflict with any other law, the provisions of the act control. The revised law omits the provisions relating to the cumulative effect of the act as unnecessary. An accepted general principle of statutory construction requires a statute to be given cumulative effect with other statutes unless it provides otherwise or unless the statutes are in conflict.

The revised law omits the provisions relating to conflicts with other laws because they are both unnecessary and potentially misleading. To the extent they imply that the act prevails over other law in existence at the time the act became effective and with which the act conflicts, they merely restate general rules of statutory construction. To the extent they imply that the act prevails over future enactments of the legislature that may conflict with the act, they are misleading. It is a fundamental principle of statutory construction that one session of the legislature may not bind a future session of the legislature. In addition, Section 311.026, Government

Code (Code Construction Act), governs the interpretation of the revised law in instances of apparent conflict with other laws. The omitted law reads:

> [Acts 53rd Leg., R.S., Ch. 404]
> Sec. 9. This Act shall be cumulative of all other existing laws, but in the event of conflict between the provisions of this Act and any other law, the provisions of this Act shall control.
>
> [Acts 60th Leg., R.S., Ch. 654]
> Sec. 2. This Act shall be cumulative of all other existing laws, but in the event of conflict between the provisions of this Act and any other law, the provisions of this Act shall control.

(3) Section 10, Chapter 404, Acts of the 53rd Legislature, Regular Session, 1953, Section 3, Chapter 135, Acts of the 54th Legislature, Regular Session, 1955, Section 3, Chapter 449, Acts of the 56th Legislature, Regular Session, 1959, and Section 3, Chapter 654, Acts of the 60th Legislature, Regular Session, 1967, provide that the act is severable. The revised law omits those provisions because the same result is produced by application of Section 311.032, Government Code (Code Construction Act), which provides that a provision of a statute is severable from each other provision of the statute that can be given effect. The omitted law reads:

> [Acts 53rd Leg., R.S., Ch. 404]
> Sec. 10. If any word, phrase, clause, sentence, section or part of this Act is held to be invalid by a court of competent jurisdiction, such holding shall not affect any other word, phrase, clause, sentence or part of this Act.
>
> [Acts 54th Leg., R.S., Ch. 135]
> Sec. 3. If any word, phrase, clause, sentence, or provision of this Act is declared unconstitutional, it is the intention of the Legislature that the remaining provisions thereof shall be effective, and that such remaining portions shall remain in full force and effect.
>
> [Acts 56th Leg., R.S., Ch. 449]
> Sec. 3. If any Section, Subsection,

paragraph, sentence, clause, or provision of this Act is for any reason held invalid, such invalidity shall not affect any other portion of this Act, but this Act shall be construed and enforced as if such invalid provision had not been contained therein.

[Acts 60th Leg., R.S., Ch. 654]

Sec. 3. If any word, phrase, clause, sentence, section or part of this Act is held to be invalid by a court of competent jurisdiction, such holding shall not affect any other word, phrase, clause, sentence or part of this Act.

(4) Section 3, Chapter 141, Acts of the 55th Legislature, Regular Session, 1957, and Section 2, Chapter 449, Acts of the 56th Legislature, Regular Session, 1959, repeal all laws or parts of laws in conflict with those acts. The revised law omits those provisions as unnecessary because, under general rules of statutory construction, a statute automatically has the effect of repealing prior conflicting enactments and is ineffective to repeal subsequent legislation. The omitted law reads:

[Acts 55th Leg., R.S., Ch. 141]

Sec. 3. All laws or parts of laws that conflict with this Act are hereby repealed.

[Acts 56th Leg., R.S., Ch. 449]

Sec. 2. All laws and parts of laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

(5) Section 3, Chapter 892, Acts of the 81st Legislature, Regular Session, 2009, recites legislative findings regarding procedural requirements for legislation affecting the district under the constitution and other laws and rules, including proper legal notice and the filing of recommendations. The revised law omits those provisions as executed. The omitted law reads:

Sec. 3. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies,

officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

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

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

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

TITLE 6. WATER AND WASTEWATER

SUBTITLE G. RIVER AUTHORITIES

CHAPTER 8512. GUADALUPE-BLANCO RIVER AUTHORITY

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CHAPTER 8512. GUADALUPE-BLANCO RIVER AUTHORITY

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 8512.0101. DEFINITIONS. In this chapter:

(1) "Authority" means the Guadalupe-Blanco River Authority.

(2) "Board" means the authority's board of directors.

(3) "Bond" means a bond or note.

(4) "Commission" means the Texas Commission on Environmental Quality.

(5) "Director" means a board member. (Acts 43rd Leg., 1st C.S., Ch. 75, Secs. 1 (part), 4(a) (part), 11 (part); New.)

Source Law

Sec. 1. . . . District to be known as "Guadalupe-Blanco River Authority" (hereinafter called the District) and . . . .

[Sec. 4]
(a) . . . board of . . . directors (herein called the Board), ...

Sec. 11. . . . bonds or notes (hereinafter called "bonds") . . . .

Revisor's Note

(1) Although Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, refers to the authority as the "District," throughout this chapter the revised law uses the term "authority" rather than "district" to more closely conform to the name of the authority.

(2) Section 11, Chapter 75, Acts of the 43rd

Legislature, 1st Called Session, 1933, defines "bonds" to mean "bonds or notes." The revised law defines "bond" to mean "a bond or note" because Section 311.012(b), Government Code (Code Construction Act), provides that a reference to the singular includes the plural and vice versa. Throughout this chapter, similar provisions in the source law that use a noun in both its singular and plural forms are revised using only the singular form.

(3) The definitions of "commission" and "director" are added to the revised law for drafting convenience and to eliminate frequent, unnecessary repetition of the substance of the definitions.

Revised Law

Sec. 8512.0102. CREATION AND NATURE OF AUTHORITY. (a) The authority is a conservation and reclamation district.

(b) The authority's creation is essential to the accomplishment of the purposes of Section 59, Article XVI, Texas Constitution. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 1 (part).)

Source Law

> Sec. 1. There is hereby created within the State of Texas, in addition to the Districts into which the State has heretofore been divided, a Conservation and Reclamation District [to be known as "Guadalupe-Blanco River Authority" (hereinafter called the District)] . . . . Such District shall be and is hereby declared to be a governmental agency and body politic and corporate, . . . the creation of such District is hereby determined to be essential to the accomplishment of the purposes of Section 59 of Article 16 of the Constitution of the State of Texas, ...

Revisor's Note

(1) Section 1, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, provides that the authority is "hereby created within the State of Texas, in addition to the Districts into which the State has heretofore been divided." The revised law omits the reference to the authority being "hereby

created" as executed. The revised law omits the reference to the authority's creation "within the State of Texas, in addition to the Districts into which the State has heretofore been divided" because the absence of the language does not imply that the legislature could create a district outside this state or that the authority is not in addition to other districts created in this state.

(2) Section 1, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, refers to the authority as "a governmental agency and body politic and corporate." The revised law omits that reference because it duplicates part of Section 59(b), Article XVI, Texas Constitution.

(3) Section 1, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, includes a list of the authority's purposes under Section 59, Article XVI, Texas Constitution, and states that those purposes are public rights and duties of the authority. The revised law omits the list of purposes and the statement that those purposes are public rights and duties of the authority because they duplicate, in substance, part of Section 59(a), Article XVI, Texas Constitution, which provides for the purposes of conservation and reclamation districts created under that section and provides that those purposes are public rights and duties. Although Section 1 of Chapter 75 refers to "the waters of rivers and streams, including the Guadalupe and Blanco Rivers and their tributaries," and Section 59(a) of Article XVI refers to "the waters of [the state's] rivers and streams," the quoted language of Section 1 is substantively duplicative of the quoted language of Section 59(a) because the Guadalupe and Blanco Rivers

are among the state's rivers and streams and because Section 311.005(13), Government Code (Code Construction Act), provides that "includes" and "including" are terms of enlargement and not limitation and do not create a presumption that components not expressed are excluded. The omitted law reads:

> Sec. 1. . . . [the creation of such District is hereby determined to be essential to the accomplishment of the purposes of Section 59 of Article 16 of the Constitution of the State of Texas,] including (to the extent hereinafter authorized) the control, storing, preservation and distribution of storm and flood waters, the waters of rivers and streams, including the Guadalupe and Blanco Rivers and their tributaries for irrigation, power, and all other useful purposes, the reclamation and irrigation of arid, semi-arid and other lands needing irrigation, the reclamation and drainage of over-flowed lands, and other lands needing drainage (but not to reclaim or drain coastal wetlands or inland marshes), the conservation and development of the forests, water and hydro-electric power of the State of Texas and the navigation of inland waters, and the preservation and conservation of all such natural resources of the State are hereby declared public rights and duties of the District.
>
> . . .

Revised Law

Sec. 8512.0103. REVIEW SCHEDULE UNDER SUNSET ACT. A review of the authority under Section 325.025, Government Code, shall be conducted as if the authority were a state agency scheduled to be abolished September 1, 2031, and every 12th year after that year. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 1A(a) (part).)

Source Law

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

Revisor's Note

Sections 1A(a) and (b), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, relate to a periodic review of the authority by the Sunset

Advisory Commission. Section 1A(a) provides in part that the authority is subject to review under Chapter 325, Government Code, as if it were a state agency but may not be abolished under that chapter. Section 1A(b) provides that the authority must pay the costs associated with the Sunset Advisory Commission's review of the authority. The revised law omits those provisions because they duplicate Sections 325.025(a), (b), and (d), Government Code. The omitted law reads:

> Sec. 1A. (a) The District is subject to review under Chapter 325, Government Code (Texas Sunset Act), but may not be abolished under that chapter. . . .
>
> (b) The District shall pay the cost incurred by the Sunset Advisory Commission in performing the review. The Sunset Advisory Commission shall determine the cost, and the District shall pay the amount promptly on receipt of a statement from the Sunset Advisory Commission detailing the cost.

Revised Law

Sec. 8512.0104. TERRITORY. (a) The authority is composed of the territory described by Subsection (b) as that territory may have been modified under:

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

(2) other law.

(b) The authority's territory consists of that part of this state included in Caldwell, Calhoun, Comal, DeWitt, Guadalupe, Gonzales, Hays, Kendall, Refugio, and Victoria Counties. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 1 (part); New.)

Source Law

> Sec. 1. [There is hereby created within the State of Texas . . . a Conservation and Reclamation District to be known as "Guadalupe-Blanco River Authority"] . . . consisting of that part of the State of Texas which is included within the boundaries of the Counties of Hays, Comal, Guadalupe, Caldwell, Gonzales, DeWitt, Victoria, Kendall, Refugio, and Calhoun. . . .

Revisor's Note

The revision of the law governing the authority

revises the statutory language describing the authority's territory. Because the authority's boundaries are subject to change, that description may not be accurate on the effective date of the revision or at the time of a later reading. For the reader's convenience, the revised law includes a reference to:

(1) the statutory authority to change the authority's territory under Subchapter J, Chapter 49, Water Code, applicable to the authority under Sections 49.001 and 49.002 of that code; and

(2) the legislature's general authority to enact a law to change the authority's territory.

Revised Law

Sec. 8512.0105. LIBERAL CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed to effectuate the chapter's purposes. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 18.)

Source Law

Sec. 18. This Act and all of the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein.

Revisor's Note
(End of Subchapter)

Section 17, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, provides that the act is full authority for authorizing and issuing bonds without reference to any other law, and that no other law with regard to authorizing or issuing obligations or depositing proceeds thereof, or impeding or restricting in any way the carrying out of other acts authorized by the act, applies to proceedings or acts taken under or pursuant to the act.

The revised law omits the statement that the act is full authority for authorizing or issuing bonds without reference to other laws because it is unnecessary. The operative provisions of the act are

fully effective on their own terms.

The revised law omits the statement that no other law with regard to authorizing or issuing obligations or depositing proceeds thereof, or impeding or restricting in any way the carrying out of other acts authorized by the act, applies to proceedings or acts taken under or pursuant to the act because it is both unnecessary and potentially misleading.

An accepted general principle of statutory construction requires a statute to be given cumulative effect with other statutes unless it provides otherwise or unless the statutes are in conflict. To the extent the statement means the act prevails over other law in existence at the time the act became effective and with which the act conflicts, the statement merely restates general rules of statutory construction. To the extent the statement implies that the act prevails over future enactments of the legislature that may conflict with it, it is misleading. It is a fundamental principle of statutory construction that one session of the legislature may not bind a future session of the legislature. In addition, Section 311.026, Government Code (Code Construction Act), governs the interpretation of the revised law in instances of apparent conflict with other laws.

Furthermore, codification of the statement is potentially misleading because the revised law not only omits provisions of the act that are impliedly repealed by other law, it also omits provisions that are duplicative of other law. Codification of the statement might create an impression that the provisions of other law that duplicate the omitted provisions do not apply. The omitted law reads:

> Sec. 17. This Act without reference to other Statutes of the State of Texas, shall constitute full authority for the authorization and issuance of bonds hereunder and no other Act or law with regard to the authorization or issuance of obligations or the deposit of the proceeds thereof, or in any way impeding or restricting the carrying out of the Acts herein authorized to be done shall be construed as applying to any proceedings taken hereunder or Acts done pursuant hereto.

SUBCHAPTER B. BOARD OF DIRECTORS; ADMINISTRATIVE PROVISIONS

Revised Law

Sec. 8512.0201. NATURE OF BOARD. The board is a state board of a state agency as contemplated by Section 30a, Article XVI, Texas Constitution. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 4(a) (part).)

Source Law

> (a) . . . board of . . . directors . . . which is a state board of a state agency as contemplated by Section 30a of Article XVI, Constitution of Texas. . . .

Revised Law

Sec. 8512.0202. MEMBERSHIP OF BOARD. (a) The board consists of nine directors appointed by the governor with the advice and consent of the senate from a list of nominations provided to the governor by the commission.

(b) Each director must:

(1) be a freehold property tax payer of this state; and

(2) reside in one of the counties included in the authority.

(c) Only one director may be appointed from any county. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 4(a) (part).)

Source Law

> (a) . . . board of nine (9) directors . . . . Each member of the Board shall be a freehold property taxpayer of the State of Texas and shall reside in one of the counties which is included within the boundaries of the District, but only one director shall be appointed from any county. The directors shall be appointed by the Governor from nominations furnished him by the Texas Commission on Environmental Quality and the appointments confirmed by the Senate as in other cases of appointments by the Governor. . . .

Revisor's Note

(1) Section 4(a), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, provides that the authority's powers, rights, privileges, and functions are exercised by a board of directors. The revised law omits that provision because it duplicates, in substance, parts of Sections 49.051 and 49.057, Water Code, which provide that the authority is governed by the board and that the board is responsible for the authority's management. Throughout this chapter, the revised law omits law that is superseded by or duplicates law in Chapter 49, Water Code, which applies to the authority under Sections 49.001 and 49.002 of that code. The omitted law reads:

> Sec. 4. (a) The powers, rights, privileges and functions of the District shall be exercised by a [board of . . . directors] . . . .

(2) Section 4(a), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, provides that the directors appointed by the governor must be "confirmed by the Senate as in other cases of appointments by the Governor." The revised law substitutes the requirement that the directors be appointed "with the advice and consent of the senate" for the requirement that the directors be "confirmed by the Senate as in other cases of appointments by the Governor" because the phrases have the same meaning and the former is more commonly used.

Revised Law

Sec. 8512.0203. TERMS. Directors serve staggered six-year terms, with three directors' terms expiring February 1 of each odd-numbered year. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 4(a) (part).)

Source Law

(a) . . . Of the directors first appointed, three (3) shall hold office for a term expiring February 1, 1937, three (3) for a term expiring February 1, 1939, and three (3) for a term expiring February 1, 1941. Thereafter, directors shall hold office for a term of six (6) years. . . .

Revisor's Note

(1) Section 4(a), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, provides that of the initial directors, three hold office for a term expiring February 1, 1937, three for a term expiring February 1, 1939, and three for a term expiring February 1, 1941. The revised law omits as executed the references to those terms because those references are transition provisions that applied only to the initial directors. Those references, however, resulted in a plan for staggering the terms of the directors so that three directors' terms expire February 1 of each odd-numbered year. The revised law is drafted accordingly.

(2) Section 4(a), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, requires the directors to continue to hold their offices until their successors are appointed and have qualified, unless they are sooner removed as provided by that act. The revised law omits the provision requiring directors to continue to hold office until their successors are appointed and have qualified because it duplicates, in substance, Section 17, Article XVI, Texas Constitution, which requires each officer in this state to continue to perform the officer's duties until a successor has qualified. The revised law omits the reference to removal because by implication a person who has been removed from an office may not continue serving in that office. The omitted law

reads:

> (a) . . . Each director shall hold office until the expiration of the term for which he was appointed and thereafter, until his successor shall have been appointed and qualified unless sooner removed as in this Act provided. . . .

Revised Law

Sec. 8512.0204. REMOVAL. The governor may remove a director for inefficiency, neglect of duty, or misconduct in office, after:

(1) at least 10 days' written notice of the charge against the director; and

(2) an opportunity for the director to be heard in person or by counsel at a public hearing. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 4(a) (part).)

Source Law

> (a) . . . Any director may be removed by the authority which appointed him for inefficiency, neglect of duty or misconduct in office, after at least ten (10) days' written notice of the charge against him and an opportunity to be heard in person or by counsel at public hearing. . . .

Revisor's Note

Section 4(a), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, provides that a director may be removed by the "authority which appointed him." The revised law substitutes a reference to the "governor" because under that section, revised in pertinent part in Sections 8512.0202 and 8512.0205 of this chapter, the authority's directors are appointed by the governor.

Revised Law

Sec. 8512.0205. VACANCY. The governor shall fill a vacancy on the board for the unexpired term. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 4(a) (part).)

Source Law

> (a) . . . A vacancy resulting from the death, resignation or removal of any director shall be filled by the authority which appointed him for the unexpired

term. . . .

Revisor's Note

(1) Section 4(a), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, provides the method of filling a vacancy on the board "resulting from the death, resignation or removal of any director." The revised law omits the quoted language as unnecessary because it merely describes every manner in which a vacancy may occur without limiting in any way the duty to fill the vacancy.

(2) Section 4(a), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, provides that a director vacancy shall be filled by the "authority which appointed him" for the unexpired term. The revised law substitutes a reference to the "governor" for the reason stated in the revisor's note to Section 8512.0204.

Revised Law

Sec. 8512.0206. VOTING REQUIREMENT. (a) Except as provided by this chapter or the bylaws, the board may take action by the affirmative vote of a majority of the directors present at a meeting.

(b) The following are valid only if authorized or ratified by the affirmative vote of at least five directors:

(1) a contract that involves an amount greater than $100,000 or has a duration of more than one year;

(2) a bond or other evidence of indebtedness; or

(3) an amendment of the bylaws. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 4(b) (part).)

Source Law

(b) . . . except as otherwise provided, in this Act or in the by-laws, all action may be taken by the affirmative vote of a majority of the directors present at any such meeting, except that no contracts which involve any amount greater than $100,000 or which is to run for a period longer than a year, and no bonds, notes or other evidence of indebtedness and no amendment of the by-laws shall be valid unless

authorized or ratified by the affirmative vote of at least five (5) directors.

Revisor's Note

(1) Section 4(b), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, provides that five directors, which is a majority of the full membership of the board, constitute a quorum. The revised law omits that provision because it duplicates, in substance, Section 311.013, Government Code (Code Construction Act), which provides that a quorum of a public body is a majority of the number of members fixed by statute. The omitted law reads:

> (b) . . . Five (5) directors shall constitute a quorum at any meeting and, ...

(2) Section 4(b), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, requires an affirmative vote of at least five directors for the authority to issue "bonds, notes or other evidence of indebtedness." Throughout this chapter, the revised law omits the reference to "notes" in this context because "note" is included in the meaning of "bond," as defined by Section 8512.0101 of this chapter.

Revised Law

Sec. 8512.0207. OFFICERS, AGENTS, AND EMPLOYEES. (a) The governor shall designate a director as the board's presiding officer, who serves at the will of the governor.

(b) The board shall select a secretary, a general manager, and a treasurer.

(c) The secretary shall keep accurate and complete records of all board proceedings.

(d) Until the board selects a secretary, or if the secretary is absent or unable to act, the board shall select a secretary pro tem.

(e) The general manager is the authority's chief executive officer.

(f) The secretary, secretary pro tem, general manager, and treasurer have the powers and duties, hold office for the term, and are subject to removal in the manner provided by the bylaws.

(g) The board shall set the compensation of the secretary, secretary pro tem, general manager, and treasurer.

(h) The board may appoint other officers, agents, and employees, set their compensation and term of office, prescribe their duties and the method by which they may be removed, and delegate to them any of the board's powers and duties as the board considers proper. (Acts 43rd Leg., 1st C.S., Ch. 75, Secs. 2(u), 5.)

Source Law

> Sec. 2. . . . Without limitation of the generality of the foregoing, the District shall have and is hereby authorized to exercise the following powers, rights, privileges, and functions;
>
> . . .
>
> (u) to appoint officers, agents, and employees, to prescribe their duties and to fix their compensation;
>
> . . .
>
> Sec. 5. The Governor shall designate a member of the Board as the presiding officer of the Board to serve in that capacity at the pleasure of the Governor. The Board shall select a Secretary who shall keep true and complete records of all proceedings of the Board. Until the appointment of a Secretary, or in the event of his absence or inability to act, a secretary pro tem shall be selected by the Board. The Board shall also select a General Manager, who shall be the chief executive officer of the District, and a treasurer. All such officers shall have such powers and duties, shall hold office for such term and be subject to removal in such manner as may be provided in the by-laws. The Board shall fix the compensation of such officers. The Board may appoint such officers, agents and employees, fix their compensation and term of office and the method by which they may be removed, and delegate to them such of its power and duties as it may deem proper.

Revisor's Note

(1) Section 2, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, states that, "[w]ithout limitation of the generality of the foregoing," the authority has certain powers, rights, privileges, and functions. Throughout this chapter, the revised law omits the quoted or similar language

because it is an accepted general principle of statutory construction that a grant of a power does not act as a limitation. Additionally, Section 311.021(2), Government Code (Code Construction Act), provides that it is presumed that, in enacting a statute, the entire statute is intended to be effective.

(2) Section 2, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, provides that the authority "shall have and is hereby authorized to exercise" certain powers, rights, privileges, and functions. Throughout this chapter, the revised law substitutes "may" or "has" for the quoted or similar language because, in context, the language has the same meaning and "may" and "has" are more commonly used.

(3) Section 2(u), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, authorizes the authority to "fix" the compensation of officers, agents, and employees. Section 5 of Chapter 75 requires the board to "fix" the compensation of the secretary, secretary pro tem, general manager, and treasurer. Throughout this chapter, in this and similar contexts, the revised law substitutes "set" for "fix" and "fixing" because, in context, the terms have the same meaning and "set" is more commonly used.

(4) Section 5, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, provides that the presiding officer of the authority serves in that office "at the pleasure" of the governor. The revised law substitutes "at the will" for "at the pleasure" because "at the will" is the more commonly used phrase to describe the termination of an individual's appointment that is at the discretion of another

person.

(5) Section 10, Chapter 22, Acts of the 86th Legislature, Regular Session, 2019, contains transition provisions regarding the expiration of the term of the board president serving on the effective date of the act (September 1, 2019), the continued service of the former board president as a director, and the designation of a successor board president. The revised law omits those provisions as executed because the terms of office as board president and as a director of the director serving as board president on the effective date of the act have expired and a successor board president has been designated. The omitted law reads:

> Sec. 10. (a) The term of the president of the board of directors of the Guadalupe-Blanco River Authority serving on the effective date of this Act expires September 1, 2019. The director serving as president on the effective date of this Act may continue to serve on the board of directors until the director's successor is appointed and has qualified.
>
> (b) Not later than September 2, 2019, the governor shall designate a director as president of the board of directors of the Guadalupe-Blanco River Authority as required by Section 5, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, as amended by this Act.

Revised Law

Sec. 8512.0208. SURETY BONDS. (a) The general manager, the treasurer, and any other authority officer, agent, or employee who is charged with the collection, custody, or payment of authority money shall give bond conditioned on:

(1) the faithful performance of the person's duties; and

(2) an accounting for all authority money and property coming into the person's possession.

(b) The bond must be in a form and amount and with a surety company approved by the board that is authorized to do business in

this state.

(c) The authority shall pay the premium on the bond and charge the premium as an operating expense. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 6 (part).)

Source Law

> Sec. 6. . . . The General Manager, the Treasurer and all other officers, agents and employees of the District who shall be charged with the collection, custody or payment of any funds of the District shall give bond conditioned on the faithful performance of their duties and an accounting for all funds and property of the District coming into their respective hands, each of which bonds shall be in form and amount and with a surety (which shall be a surety company authorized to do business in the State of Texas), approved by the Board, and the premiums on such bonds shall be paid by the District and charged as an operating expense.

Revisor's Note

(1) Section 6, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, refers to the authority's "funds." The revised law substitutes "money" for "funds" because, in context, the terms have the same meaning and "money" is more commonly used.

(2) Section 6, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, refers to money and property of the authority coming into the "hands" of certain persons. The revised law substitutes "possession" for "hands" because, in context, the terms have the same meaning and "possession" is more consistent with modern usage.

Revised Law

Sec. 8512.0209. AUTHORITY'S DOMICILE AND OFFICE. (a) The authority's domicile is in the city of New Braunfels, Comal County.

(b) The authority shall maintain an office in the city of New Braunfels, Comal County.

(c) The general manager is in charge of the authority's office. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 7 (part).)

Source Law

Sec. 7. The domicile of the District shall be in the City of New Braunfels, County of Comal, where the District shall maintain an office, in charge of its General Manager. . . .

Revised Law

Sec. 8512.0210. DIRECTOR TRAINING PROGRAM. (a) A person who is appointed to and qualifies for office as a director may not vote, deliberate, or be counted as a director in attendance at a board meeting until the person completes a training program that complies with this section.

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

(1) the law governing the authority's operations;

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

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

(4) the requirements of:

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

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

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

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

(d) The general manager shall create a training manual that includes the information required by Subsection (b). The general manager shall distribute a copy of the training manual annually to each director. Each director shall sign and submit to the general manager a statement acknowledging that the director has received

and reviewed the training manual. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 4A.)

Source Law

Sec. 4A. (a) A person who is appointed to and qualifies for office as a director may not vote, deliberate, or be counted as a director in attendance at a Board meeting until the person completes a training program that complies with this section.

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

(1) the law governing District operations;

(2) the programs, functions, rules, and budget of the District;

(3) the results of the most recent formal audit of the District;

(4) the requirements of:

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

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

(5) any applicable ethics policies adopted by the District or the Texas Ethics Commission.

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

(d) The general manager shall create a training manual that includes the information required by Subsection (b) of this section. The general manager shall distribute a copy of the training manual annually to each director. Each director shall sign and submit to the general manager a statement acknowledging that the director has received and reviewed the training manual.

Revised Law

Sec. 8512.0211. SEPARATION OF POLICYMAKING AND MANAGEMENT FUNCTIONS. The board shall develop and implement policies that clearly separate the board's policymaking responsibilities and the general manager's and staff's management responsibilities. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 5A.)

Source Law

Sec. 5A. The Board shall develop and implement policies that clearly separate the policymaking responsibilities of the Board and the management responsibilities of the general manager and the staff of the District.

Revised Law

Sec. 8512.0212. COMPLAINTS. (a) The authority shall maintain a system to promptly and efficiently act on complaints

filed with the authority.

(b) The authority shall maintain information about the parties to and subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and the disposition of the complaint.

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

(d) The authority shall make information available describing the authority's procedures for complaint investigation and resolution. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 25.)

Source Law

> Sec. 25. (a) The District shall maintain a system to promptly and efficiently act on complaints filed with the District. The District shall maintain information about the parties to and subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and the disposition of the complaint.
>
> (b) The District shall make information available describing its procedures for complaint investigation and resolution.
>
> (c) The District shall periodically notify the complaint parties of the status of the complaint until final disposition.

Revised Law

Sec. 8512.0213. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES. (a) The board shall develop a policy to encourage the use of appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the authority's jurisdiction.

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

(c) The authority shall:

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

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

(3) collect data concerning the effectiveness of those procedures. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 23.)

Source Law

Sec. 23. (a) The Board shall develop a policy to encourage the use of appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the District's jurisdiction.

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

(c) The District shall:

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

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

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

Revised Law

Sec. 8512.0214. PUBLIC TESTIMONY. (a) The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the authority's jurisdiction.

(b) At each regular board meeting, the board shall include public testimony as a meeting agenda item and allow members of the public to comment on other agenda items and other matters under the authority's jurisdiction. The board may not deliberate on or decide a matter not included in the meeting agenda, except that the board may discuss including the matter on the agenda for a subsequent meeting. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 24.)

Source Law

Sec. 24. (a) The Board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the Board and to speak on any issue under the jurisdiction of the District.

(b) At each regular meeting of the Board, the Board shall include public testimony as a meeting agenda item and allow members of the public to comment on other agenda items and other matters under the jurisdiction of the District. The Board may not deliberate on or decide a matter not included in the meeting agenda, except that the Board may discuss including the matter on the agenda for a subsequent meeting.

Revised Law

Sec. 8512.0215. SEAL. The authority may adopt and use a corporate seal. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 2(r).)

Source Law

> Sec. 2. . . . the District shall have and is hereby authorized to exercise the following powers, rights, privileges, and functions;
>
> . . .
>
> (r) to adopt, use and alter a corporate seal;
>
> . . .

Revisor's Note

Section 2(r), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, states that the authority may adopt, use, and alter a corporate seal. The revised law omits "alter" because the power to adopt a seal includes the power to alter it.

Revisor's Note
(End of Subchapter)

(1) Section 4(a), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, requires each director to take the "official oath of office prescribed by General Statute." At the time Chapter 75 was enacted, Article 16, Revised Statutes, required each officer in this state to "take and subscribe the oath prescribed by Article 16, Section 1, of the Constitution of this State." In 1993, Article 16, Revised Statutes, was codified in part as Section 604.001, Government Code. The portion of Article 16 requiring an officer to take the oath of office was omitted from the revised law because under Section 1, Article XVI, Texas Constitution, all officers are required to take the oath (or affirmation) before assuming office. No other applicable general law requires a director of the authority to take an oath of office. Accordingly, the revised law omits the provision. The omitted law reads:

> (a) . . . Each director shall qualify

by taking the official oath of office prescribed by General Statute.

(2) Section 4(b), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, provides that until the adoption of bylaws setting the time and place of regular meetings and the manner in which special meetings may be called, board meetings shall be held at the times and places designated in writing by five directors. Because the board has adopted those bylaws, the revised law omits the provision as executed. The omitted law reads:

> (b) Until the adoption of by-laws fixing the time and place of regular meetings and the manner in which special meetings may be called, meetings of the Board shall be held at such times and places as five (5) of the directors may designate in writing. . . .

(3) Section 2, Chapter 432, Acts of the 61st Legislature, Regular Session, 1969, contains transition procedures regarding the terms of certain directors. The revised law omits that provision as executed. The omitted law reads:

> Sec. 2. Nothing in this Act shall be construed to affect the present membership of the Board of Directors of the Guadalupe-Blanco River Authority, and each member of the present Board of Directors shall continue to serve as such until the expiration of the term of office for which he was appointed and thereafter until his successor shall have been appointed and qualified, unless sooner removed as provided in said Section 4.

SUBCHAPTER C. POWERS AND DUTIES

Revised Law

Sec. 8512.0301. GENERAL POWERS. The authority has:

(1) the powers of government and the authority to exercise the rights, privileges, and functions specified by this chapter; and

(2) all powers, rights, privileges, and functions conferred by general law on any district, other than a groundwater conservation district, created under Section 59, Article XVI, Texas

Constitution, except as expressly limited by this chapter. (Acts 43rd Leg., 1st C.S., Ch. 75, Secs. 1 (part), 2 (part).)

Source Law

> Sec. 1. . . . [Such District] . . . with such powers of government and with the authority to exercise such rights, privileges, and functions as may be hereinafter specified, and . . . .
>
> Sec. 2. Except as expressly limited by this Act, the District shall have and is hereby authorized to exercise all powers, rights, privileges, and functions conferred by General Law, now in force or hereafter enacted, upon any District or Districts created pursuant to Section 59, of Article 16, of the Constitution of the State of Texas (excluding underground water conservation districts), and the same are adopted by reference. . . .

Revisor's Note

(1) Section 2, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, refers to the general laws of this state "now in force or hereafter enacted." The revised law omits the quoted language as unnecessary under accepted general principles of statutory construction. The reference to the general laws means those laws "in force" at the time the provision was adopted. It is unnecessary to state that the authority may be granted additional powers by later enacted laws because those laws would apply on their own terms.

(2) Section 2, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, refers to "underground water." Throughout this chapter, the revised law substitutes "groundwater" for "underground water" or "underground waters" to conform to the term used in Chapter 36, Water Code.

(3) Section 2, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, provides that the authority has all powers, rights, privileges, and functions conferred by general law on any district created under Section 59, Article XVI, Texas

Constitution, other than an underground water conservation district, "and the same are adopted by reference." The revised law omits the quoted language because a law that applies to or governs the authority applies on its own terms without needing to be adopted by reference.

Revised Law

Sec. 8512.0302. POWERS RELATED TO WATER OF RIVERS AND STREAMS. The authority may:

(1) control, store, and preserve, in or adjoining the authority's boundaries, the water of any rivers and streams, including the Guadalupe and Blanco Rivers and their tributaries, for all useful purposes; and

(2) use, distribute, and sell the water described by Subdivision (1), in the authority, for all useful purposes. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 2(a).)

Source Law

> Sec. 2. . . . the District shall have and is hereby authorized to exercise the following powers, rights, privileges, and functions;
>
> (a) to control, store and preserve, within or adjoining the boundaries of the District, the waters of any rivers and streams, including the waters of the Guadalupe and Blanco Rivers and their tributaries, for all useful purposes, and to use, distribute and sell the same, within the boundaries of the District, for any such purposes;
>
> . . .

Revised Law

Sec. 8512.0303. POWERS RELATED TO GROUNDWATER. The authority may:

(1) conserve, preserve, and develop groundwater in the authority, subject to any applicable regulation by this state or any political subdivision, for all useful purposes; and

(2) use, distribute, and sell groundwater, in the authority, for all useful purposes. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 2(b).)

Source Law

Sec. 2. . . . the District shall have and is

hereby authorized to exercise the following powers, rights, privileges, and functions;

. . .

(b) to conserve, preserve and develop underground waters within the boundaries of the District (subject to any applicable regulation by the State or any political subdivision) for all useful purposes, and to use, distribute and sell the same, within the boundaries of the District for any such purposes;

. . .

Revised Law

Sec. 8512.0304. ACQUISITION OF WATER, WATER SUPPLY FACILITIES, AND CONSERVATION STORAGE CAPACITY. The authority may acquire water, water supply facilities, and conservation storage capacity inside or outside the authority from any person. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 2(c).)

Source Law

Sec. 2. . . . the District shall have and is hereby authorized to exercise the following powers, rights, privileges, and functions;

. . .

(c) to acquire water, water supply facilities and conservation storage capacity within or without the District from any person, including the State or any of its agencies and subdivisions and the United States of America and any of its agencies and subdivisions;

. . .

Revisor's Note

Section 2(c), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, authorizes the authority to acquire certain property from any "person, including the State or any of its agencies and subdivisions and the United States of America and any of its agencies and subdivisions." Throughout this chapter, the revised law substitutes "person" for the quoted or similar language because under Section 311.005(2), Government Code (Code Construction Act), "person" is defined to include any legal entity.

Revised Law

Sec. 8512.0305. USE, DISTRIBUTION, AND SALE OF WATER OUTSIDE AUTHORITY. (a) The authority may use, distribute, and sell, outside the authority, any water the authority controls,

stores, preserves, conserves, develops, or acquires if the board determines that adequate provision can be made to continue to serve the water requirements inside the authority.

(b) Notwithstanding Subsection (a), the authority may not enter into any agreement that contemplates or results in the removal from the watershed of the Guadalupe and Blanco Rivers and their tributaries of any surface water of the authority necessary to supply the reasonably foreseeable future water requirements for municipal uses inside the watershed during the next 50 years, except on a temporary, interim basis. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 2(d).)

Source Law

> Sec. 2. . . . the District shall have and is hereby authorized to exercise the following powers, rights, privileges, and functions;
>
> . . .
>
> (d) to use, distribute and sell, without the boundaries of the District, any waters which may be controlled, stored, preserved, conserved, developed or acquired by the District, if the Board hereinafter referred to determines that adequate provision can be made to continue to serve the water requirements within the boundaries of the District, provided the District shall not enter into any agreement which contemplates or results in the removal from the watershed of the Guadalupe and Blanco Rivers and their tributaries of any surface water of the District necessary to supply the reasonably foreseeable future water requirements for municipal uses during the next ensuing fifty-year period within such watershed, except on a temporary, interim basis;
>
> . . .

Revised Law

Sec. 8512.0306. DEVELOPMENT, GENERATION, DISTRIBUTION, AND SALE OF WATER POWER AND ELECTRIC ENERGY. The authority may:

(1) develop and generate water power and electric energy inside the authority; and

(2) distribute and sell water power and electric energy inside or outside the authority. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 2(e).)

Source Law

> Sec. 2. . . . the District shall have and is hereby authorized to exercise the following powers, rights, privileges, and functions;
>
> . . .

(e) to develop and generate water power and electric energy within the boundaries of the District and to distribute and sell water power and electric energy, within or without the boundaries of the District;

. . .

Revised Law

Sec. 8512.0307. PREVENTION OF DAMAGE TO PERSONS OR PROPERTY. The authority may prevent or aid in the prevention of damage to persons or property from the water of the Guadalupe and Blanco Rivers and their tributaries. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 2(f).)

Source Law

Sec. 2. . . . the District shall have and is hereby authorized to exercise the following powers, rights, privileges, and functions;

. . .

(f) to prevent or aid in the prevention of damage to person or property from the waters of the Guadalupe and Blanco Rivers and their tributaries;

. . .

Revised Law

Sec. 8512.0308. FORESTATION AND REFORESTATION; PREVENTION OF SOIL EROSION AND FLOODS. In the watershed of the Guadalupe and Blanco Rivers and their tributaries, the authority may:

(1) forest, reforest, or aid in foresting or reforesting; and

(2) prevent or aid in the prevention of soil erosion and floods. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 2(g).)

Source Law

Sec. 2. . . . the District shall have and is hereby authorized to exercise the following powers, rights, privileges, and functions;

. . .

(g) to forest and reforest and to aid in the foresting and reforesting of the watershed area of the Guadalupe and Blanco Rivers and their tributaries and to prevent and to aid in the prevention of soil erosion and floods within said watershed area;

. . .

Revisor's Note

Section 2(g), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, refers to "the watershed area of the Guadalupe and Blanco Rivers and their tributaries." The revised law omits the

reference to "area" because, in context, "area" is included in the meaning of "watershed."

Revised Law

Sec. 8512.0309. DEVELOPMENT OF NAVIGATION AND RELATED FACILITIES. The authority may develop the navigation of inland water in the authority and any facility in aid of that navigation. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 2(h).)

Source Law

> Sec. 2. . . . the District shall have and is hereby authorized to exercise the following powers, rights, privileges, and functions;
>
> . . .
>
> (h) to develop the navigation of inland waters within the boundaries of the District and any facilities in aid thereof;
>
> . . .

Revised Law

Sec. 8512.0310. DEVELOPMENT OF RECLAMATION AND DRAINAGE OF CERTAIN LAND AND RELATED FACILITIES. The authority may develop the reclamation and drainage of overflowed land and other land needing drainage, other than coastal wetlands or inland marshes, in the authority and any facility in aid of that reclamation and drainage. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 2(i).)

Source Law

> Sec. 2. . . . the District shall have and is hereby authorized to exercise the following powers, rights, privileges, and functions;
>
> . . .
>
> (i) to develop the reclamation and drainage of overflowed lands and other lands needing drainage within the boundaries of the District and any facilities in aid thereof (but not to reclaim or drain coastal wetlands or inland marshes);
>
> . . .

Revised Law

Sec. 8512.0311. WASTE MANAGEMENT. (a) The authority may develop the collection, transportation, treatment, disposal, and handling of any waste, as that term is defined by general law, and any facility in aid of those activities.

(b) The authority may construct or acquire sanitary sewer facilities for the collection, treatment, and disposal of sewage in a municipality's boundaries only with the municipality's consent.

(Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 2(j).)

Source Law

> Sec. 2. . . . the District shall have and is hereby authorized to exercise the following powers, rights, privileges, and functions;
>
> . . .
>
> (j) to develop the collection, transportation, treatment, disposal and handling of any waste as such term may be defined by General Law and any facilities in aid thereof (but only with the consent of a city if sanitary sewer facilities for the collection, treatment and disposal of sewage are to be constructed or acquired within its corporate limits);
>
> . . .

Revisor's Note

(1) Section 2(j), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, refers to a "city." Throughout this chapter, the revised law substitutes "municipality" for "city" and similar terms because the terms have the same meaning and "municipality" is the term used in the Local Government Code.

(2) Section 2(j), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, refers to a municipality's "corporate limits." The revised law substitutes "municipality's boundaries" for "corporate limits" because the phrases have the same meaning and "municipality's boundaries" is the phrase used in the Local Government Code.

Revised Law

Sec. 8512.0312. CONSERVATION AND DEVELOPMENT FOR RECREATION. The authority may conserve and develop water and land for recreational purposes and any facility in aid of those purposes. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 2(k).)

Source Law

> Sec. 2. . . . the District shall have and is hereby authorized to exercise the following powers, rights, privileges, and functions;
>
> . . .
>
> (k) to conserve and develop waters and lands for recreation purposes and any facilities in aid thereof;
>
> . . .

Revised Law

Sec. 8512.0313. ACQUISITION OR OPERATION OF PROPERTY. (a) The authority may acquire, maintain, use, and operate property of any kind or any property interest, inside or outside the authority, necessary or convenient to the exercise of the powers, rights, privileges, and functions conferred on the authority by this chapter.

(b) The authority may acquire property or a property interest as provided by Subsection (a) by purchase, lease, gift, or any other manner, other than by the exercise of the power of eminent domain. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 2(l).)

Source Law

> Sec. 2. . . . the District shall have and is hereby authorized to exercise the following powers, rights, privileges, and functions;
>
> . . .
>
> (l) to acquire by purchase, lease, gift or in any other manner (otherwise than by condemnation) and to maintain, use and operate any and all property of any kind, real, personal, or mixed, or any interest therein, within or without the boundaries of the District, necessary or convenient to the exercise of the powers, rights, privileges and functions conferred upon it by this Act;
>
> . . .

Revisor's Note

(1) Section 2(l), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, prohibits the authority from acquiring certain property or property interests by "condemnation." The revised law substitutes "the exercise of the power of eminent domain" for the quoted language because the phrases have the same meaning and the latter phrase is consistent with modern usage in laws relating to eminent domain.

(2) Section 2(l), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, refers to "property of any kind, real, personal, or mixed." Throughout this chapter, the revised law omits references to "real, personal, or mixed" property

because under Section 311.005(4), Government Code (Code Construction Act), "property" includes both real and personal property, and "mixed" property is property consisting of both real and personal property.

Revised Law

Sec. 8512.0314. EMINENT DOMAIN. (a) The authority may acquire by the exercise of the power of eminent domain property of any kind or a property interest inside or outside the authority that is necessary or convenient to the exercise of the powers, rights, privileges, and functions conferred on the authority by this chapter.

(b) The authority must exercise the power of eminent domain in the manner provided by:

(1) Chapter 21, Property Code; or

(2) the statutes relating to the exercise of the power of eminent domain by districts organized under general law under Section 59, Article XVI, Texas Constitution.

(c) The authority may not exercise the power of eminent domain to acquire property or a property interest that is:

(1) located outside the authority; and

(2) owned by a body politic.

(d) The authority's authority under this section to exercise the power of eminent domain expired on September 1, 2013, unless the authority submitted a letter to the comptroller in accordance with Section 2206.101(b), Government Code, not later than December 31, 2012. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 2(m); New.)

Source Law

Sec. 2. . . . the District shall have and is hereby authorized to exercise the following powers, rights, privileges, and functions;

. . .

(m) to acquire by condemnation any and all property of any kind, real, personal or mixed, or any interest therein, within or without the boundaries of the District (other than such property or any interest therein without the boundaries of the District as may

at the time be owned by any body politic) necessary or convenient to the exercise of the powers, rights, privileges, and functions conferred upon it by this Act, in the manner provided by General Law with respect to condemnation or, at the option of the District, in the manner provided by the Statutes relative to condemnation by Districts organized under General Law pursuant to Section 59, of Article 16, of the Constitution of the State of Texas;

. . .

Revisor's Note

(1) Section 2(m), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, authorizes the authority to acquire certain property or property interests by "condemnation." The revised law substitutes "the exercise of the power of eminent domain" for the reason stated in Revisor's Note (1) to Section 8512.0313.

(2) Section 2(m), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, authorizes the authority to acquire certain property or property interests by condemnation in the manner provided by "General Law with respect to condemnation." The revised law substitutes for the quoted language a reference to Chapter 21, Property Code, because that is the general law governing eminent domain for governmental entities.

(3) Section 2(m), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, provides the authority eminent domain authority. Section 2206.101, Government Code, required an entity with eminent domain authority to submit a letter with certain information to the comptroller not later than December 31, 2012, to prevent the entity's eminent domain authority from expiring on September 1, 2013. To avoid the appearance that this revision recognizes authority that the authority may not possess at the time of the revision, the revised law includes a provision setting out the requirements of Section 2206.101, Government

Code.

Revised Law

Sec. 8512.0315. SALE, LEASE, OR OTHER DISPOSITION OF PROPERTY. Subject to the provisions of this chapter, the authority may sell, lease, or otherwise dispose of property of any kind or any property interest:

(1) that is not necessary authority business; or

(2) the sale, lease, or disposition of which, in the board's judgment, is necessary or convenient to the exercise of the powers, rights, privileges, and functions conferred on the authority by this chapter or general law. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 2(n).)

Source Law

> Sec. 2. . . . the District shall have and is hereby authorized to exercise the following powers, rights, privileges, and functions;
>
> . . .
>
> (n) subject to the provisions of this Act from time to time sell, lease, or otherwise dispose of any property of any kind, real, personal, or mixed, or any interest therein, which shall not be necessary to the carrying on of the business of the District or the sale, lease, or disposition of which, in the judgment of the Board hereinafter referred to, is necessary or convenient to the exercise of the powers, rights, privileges and functions conferred upon the District by this Act or by General Law;
>
> . . .

Revisor's Note

Section 2(n), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, states that the authority may sell, lease, or otherwise dispose of property "from time to time." The revised law omits the quoted language because the power to take an action implies the power to take the action at any time.

Revised Law

Sec. 8512.0316. OVERFLOW OR INUNDATION OF PUBLIC PROPERTY; RELOCATION OF FACILITIES. (a) In this section, "sole expense" means the actual cost of relocating, raising, lowering, rerouting, or changing the grade of or altering the construction of a facility to provide comparable replacement without enhancement of the

facility, after deducting the net salvage value derived from the old facility.

(b) The authority may overflow and inundate any public property and require the relocation of a road, pipeline, transmission line, railroad, cemetery, or highway in the manner and to the extent permitted to a district organized under general law under Section 59, Article XVI, Texas Constitution.

(c) If in the exercise of the power of eminent domain or any other power the authority requires relocating, raising, lowering, rerouting, or changing the grade of or altering the construction of any railroad, transmission line, conduit, pole, property, facility, or pipeline, the action shall be the authority's sole expense. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 2(o).)

Source Law

> Sec. 2. . . . the District shall have and is hereby authorized to exercise the following powers, rights, privileges, and functions;
>
> . . .
>
> (o) to overflow and inundate any public lands and public property and to require the relocation of roads, pipelines, transmission lines, railroads, cemeteries and highways in the manner and to the extent permitted to Districts organized under General Law pursuant to Section 59, of Article 16, of the Constitution of the State of Texas; provided that if the District requires the relocation, raising, lowering, rerouting, or change in grade or alteration in the construction of any railroad, transmission lines, conduits, poles, properties, or facilities, or pipelines in the exercise of the power of eminent domain or any other power, all of the relocation, raising, lowering, rerouting or changes in grade or alteration of construction shall be the sole expense of the District. The term "sole expense" means the actual cost of relocation, raising, lowering, rerouting, or change in grade or alteration of construction to provide comparable replacement without enhancement of facilities, after deducting the net salvage value derived from the old facility;
>
> . . .

Revisor's Note

Section 2(o), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, refers to "public lands and public property." The revised law omits the reference to "public lands" because under Section 311.005(4), Government Code (Code

Construction Act), the definition of "property" includes real property, and "land" is included in the meaning of real property.

Revised Law

Sec. 8512.0317. CONSTRUCTION, MAINTENANCE, AND OPERATION OF FACILITIES. The authority may construct, extend, improve, maintain, reconstruct, and use and operate facilities of any kind necessary or convenient to the exercise of the authority's powers, rights, privileges, and functions. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 2(p).)

Source Law

> Sec. 2. . . . the District shall have and is hereby authorized to exercise the following powers, rights, privileges, and functions;
>
> . . .
>
> (p) to construct, extend, improve, maintain, and reconstruct, to cause to be constructed, extended, improved, maintained and reconstructed, and to use and operate, any and all facilities of any kind necessary or convenient to the exercise of such powers, rights, privileges and functions;
>
> . . .

Revisor's Note

Section 2(p), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, grants the authority the power to construct, extend, improve, maintain, and reconstruct and "to cause to be constructed, extended, improved, maintained and reconstructed" certain facilities. The revised law omits the quoted language as unnecessary because the grant of a power implies the authority to provide for the exercise of that power. In addition, the quoted language duplicates, in substance, Section 49.213(b), Water Code, which authorizes the authority to contract with any person in the performance of an authority purpose or function.

Revised Law

Sec. 8512.0318. GENERAL CONTRACT POWERS. (a) The authority may enter into a contract or execute an instrument

necessary or convenient to the exercise of the powers, rights, privileges, and functions conferred on the authority by this chapter or general law, including a contract with any person as the board considers necessary or proper for, or in connection with, any corporate purpose to provide for the construction, acquisition, ownership, financing, operation, maintenance, sale, leasing to or from, or other use or disposition of any facility authorized to be developed, preserved, conserved, acquired, or constructed under this chapter or general law.

(b) The power to enter into a contract regarding a facility under Subsection (a) includes the power to enter into a contract regarding:

(1) any improvements, structures, facilities, equipment, and other property of any kind in connection with the contract's subject;

(2) any land, leaseholds, and easements; and

(3) any interests in property described by this subsection.

(c) A contract entered into or instrument executed under this section may be for the term and contain the provisions the board determines to be in the authority's best interests. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 2(v).)

Source Law

> Sec. 2. . . . the District shall have and is hereby authorized to exercise the following powers, rights, privileges, and functions;
>
> . . .
>
> (v) to make contracts and to execute instruments necessary or convenient to the exercise of the powers, rights, privileges, and functions conferred upon it by this Act or General Law for such term and with such provisions as the Board hereinafter referred to may determine to be in the best interests of the District, including, without in any way limiting the generality of the foregoing, contracts with persons, including the State of Texas, the United States of America and any corporation or agency thereof and districts, cities, towns, persons, organizations, associations, firms, corporations, entities or others, as such Board may deem necessary or proper for, or in connection with, any corporate purpose to provide for the construction, acquisition, ownership, financing, operation, maintenance, sale, leasing to or from, or other use or disposition of any facilities authorized

to be developed, preserved, conserved, acquired, or constructed under this Act or General Law, including any improvements, structures, facilities, equipment and all other property of any kind in connection therewith and any lands, leaseholds, easements and any interests in any of the foregoing;

. . .

Revised Law

Sec. 8512.0319. JOINT PROJECTS RELATED TO PROPERTY. The authority may:

(1) authorize any person to participate with the authority in the joint construction, acquisition, ownership, financing, operation, and maintenance of improvements, structures, facilities, equipment, and any other property in connection with the subject of the authorization, and all land, leaseholds, easements, and interests in the property that the board determines to be necessary or proper for, or in connection with, any corporate purpose; and

(2) allow a joint participant to receive the portion of the revenue derived from the property that the board considers just, equitable, and proper. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 2(w).)

Source Law

Sec. 2. . . . the District shall have and is hereby authorized to exercise the following powers, rights, privileges, and functions;

. . .

(w) to authorize and allow any of such persons, including the State of Texas, the United States of America and any corporation or agency thereof and districts, agencies, cities, towns, persons, organizations, associations, firms, corporations, entities or others to participate with the District in the joint construction, acquisition, ownership, financing, operation, and maintenance of all of such improvements, structures, facilities, equipment and any other property in connection therewith, and all such lands, leaseholds, easements and interests therein as the Board hereinafter referred to may determine is necessary or proper for, or in connection with, any corporate purpose, and to allow such persons to receive such portion of the revenues derived therefrom as such Board shall deem just, equitable and proper;

. . .

Revisor's Note

Section 2(w), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, refers to the

power of the authority to "authorize and allow" any person to participate with the authority in certain joint undertakings. The revised law omits "allow" because the meaning of the term is included in the meaning of "authorize."

Revised Law

Sec. 8512.0320. STATE SUPERVISION AND APPROVAL. The commission shall consider the adequacy of, and approve or refuse to approve, any flood control or conservation improvement plan that:

(1) the authority devises to achieve a plan or purpose for which the authority was created; and

(2) contemplates an improvement that the commission would supervise under general law. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 3 (part).)

Source Law

> Sec. 3. . . . the State Board of Water Engineers, and in appropriate instances, by the State Reclamation Engineer, each of which agencies shall be charged with the authority and duty to approve, or to refuse to approve, the adequacy of any plan or plans for flood control or conservation improvement purposes devised by the District for the achievement of the plans and purposes intended in the creation of the District, and which plans contemplate improvements supervised by the respective State authorities under the provisions of the General Law.

Revisor's Note

(1) Section 3, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, refers to the "State Board of Water Engineers" and the "State Reclamation Engineer." The powers and duties of the State Reclamation Engineer were transferred to the State Board of Water Engineers by Chapter 115, Acts of the 57th Legislature, Regular Session, 1961. The State Board of Water Engineers, created by Chapter 171, General Laws, Acts of the 33rd Legislature, Regular Session, 1913, became the Texas Water Commission under Chapter 4, Acts of the 57th Legislature, 3rd Called Session, 1962. The name of the

agency was changed to the Texas Water Rights Commission by Chapter 296, Acts of the 59th Legislature, Regular Session, 1965. In 1977, Sections 1 and 9, Chapter 870, Acts of the 65th Legislature, Regular Session, changed the name of the agency to the Texas Water Commission. Subsequently, the name of the Texas Water Commission was changed to the Texas Natural Resource Conservation Commission by Section 1.085, Chapter 3, Acts of the 72nd Legislature, 1st Called Session, 1991. The name of the Texas Natural Resource Conservation Commission was changed to the Texas Commission on Environmental Quality by Section 18.01, Chapter 965, Acts of the 77th Legislature, Regular Session, 2001. The revised law is drafted accordingly.

(2) Section 3, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, provides that the authority's powers and duties are subject to the supervision of the state, acting through the State Board of Water Engineers and the State Reclamation Engineer. The revised law omits that provision because, as explained by Revisor's Note (1) to this section, the Texas Commission on Environmental Quality is the successor to the board of water engineers and the reclamation engineer, and therefore it duplicates, in substance, part of Section 12.081, Water Code, which subjects certain special districts and authorities, including the authority, to supervision by the Texas Commission on Environmental Quality. The omitted law reads:

> Sec. 3. The powers and duties herein devolved upon the said District shall be subject to the continuing rights of supervision by the State, which shall be exercised through [the State Board of Water Engineers, and in appropriate instances, by the State Reclamation Engineer] . . . .

Revised Law

Sec. 8512.0321. ADDITIONAL POWERS RELATING TO CONTRACTS, RULES, AND REGULATIONS. The authority may enter into and carry out contracts or establish or comply with rules and regulations concerning labor and materials and other related matters in connection with any project the authority considers desirable or as requested by this state, the United States, or any corporation or agency created, designated, or established by this state or the United States, that may assist in financing the project. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 13.)

Source Law

> Sec. 13. The District may, but without intending by this provision to limit any powers of the District as granted to it by this Act, enter into and carry out such contracts, or establish or comply with such rules and regulations concerning labor and materials and other related matters in connection with any project or projects as the District may deem desirable or as may be requested by the State of Texas, the United States of America, or any corporation or agency created, designated or established thereby, which may assist in the financing of any such project or projects.

Revised Law

Sec. 8512.0322. PUBLIC USE OF AUTHORITY'S SURPLUS LAND. The authority may not prevent free public use of the authority's surplus land for recreational purposes, hunting, or fishing except to the extent to which, in the board's opinion, the use would interfere with the proper conduct of the business. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 15.)

Source Law

> Sec. 15. The District shall not prevent free public use of its surplus lands for recreation purposes and for hunting and fishing except at such point where, in the opinion of the Directors, such use would interfere with the proper conduct of the business.

Revised Law

Sec. 8512.0323. EFFECT OF CHAPTER ON WATER RIGHTS AND GROUNDWATER REGULATION. (a) This chapter does not confer any water rights on the authority or set any priority of rights. The authority must obtain its water rights by application to and permit

from the commission as provided by general statute.

(b) This chapter does not authorize the authority to regulate the withdrawal of groundwater. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 2(y) (part).)

Source Law

> Sec. 2. . . .
>
> . . .
>
> (y) nothing herein shall be construed as conferring any water rights on the District, or as fixing any priority of rights, but said District shall obtain its water rights by application to and permit from the Texas Commission on Environmental Quality as provided by General Statute; and nothing herein shall be construed as authorizing the District to make any regulation of the withdrawal of underground waters. . . .

Revised Law

Sec. 8512.0324. APPLICABILITY OF CERTAIN STATUTES. The rights, powers, privileges, and functions granted to the authority under this chapter, and the authority itself, are expressly subject to Chapters 5, 7, 11, 12, 17, 26, and 30, Water Code, and Chapter 366, Health and Safety Code. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 2(y) (part).)

Source Law

> Sec. 2. . . . the District shall have and is hereby authorized to exercise the following powers, rights, privileges, and functions;
>
> . . .
>
> (y) . . . The rights, powers, privileges, authority, and functions granted to the District under this Act, and the District itself, are expressly subject to Chapters 5, 7, 11, 12, 17, 26, and 30, Water Code, and Chapter 366, Health and Safety Code.

Revisor's Note

Section 2(y), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, refers to the authority's "powers" and "authority." The revised law omits "authority" because, in context, it is included in the meaning of "powers."

Revisor's Note
(End of Subchapter)

(1) Section 2(q), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, provides that

the authority may sue and be sued in its corporate name. The revised law omits that provision because it duplicates part of Section 49.066, Water Code. The omitted law reads:

> Sec. 2. . . . [Without limitation of the generality of the foregoing, the District shall have and is hereby authorized to exercise the following powers, rights, privileges, and functions;]
>
> . . .
>
> (q) to sue and to be sued in its corporate name;
>
> . . .

(2) Section 2(t), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, provides that the authority may make bylaws for the management and regulation of its affairs. The revised law omits that provision because it duplicates, in substance, part of Section 49.057(g), Water Code, which provides that a district's board may adopt bylaws to govern the district's affairs. The omitted law reads:

> Sec. 2. . . . [the District shall have and is hereby authorized to exercise the following powers, rights, privileges, and functions;]
>
> . . .
>
> (t) to make by-laws for the management and regulation of its affairs;
>
> . . .

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Revised Law

Sec. 8512.0401. DISBURSEMENT OF MONEY. The authority may disburse the authority's money only by a check, draft, order, or other instrument signed by a person authorized to sign the instrument by the bylaws or a resolution in which at least five directors concur. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 6 (part).)

Source Law

> Sec. 6. The moneys of the District shall be disbursed only on checks, drafts, orders or other instruments signed by such persons as shall be authorized to sign the same by the by-laws or resolution concurred in by not less than five (5) directors. . . .

Revised Law

Sec. 8512.0402. ACCOUNTS, CONTRACTS, AND OTHER RECORDS; PUBLIC INSPECTION. (a) The authority shall keep complete and accurate accounts conforming to approved methods of bookkeeping.

(b) The accounts and all contracts, documents, and records of the authority shall be kept at an official authority office.

(c) The contracts shall be open to public inspection at all reasonable times. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 7 (part).)

Source Law

> Sec. 7. . . . The District shall cause to be kept complete and accurate accounts conforming to approved methods of bookkeeping. Said accounts and all contracts, documents and records of the District shall be kept at an official office of the District. Said accounts and contracts shall be open to public inspection at all reasonable times. . . .

Revisor's Note

Section 7, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, provides that accounts and contracts shall be open to public inspection at all reasonable times. The revised law omits that provision insofar as it pertains to accounts as superseded by Sections 49.191(b) and 49.196(b), Water Code (enacted by Section 2, Chapter 715, Acts of the 74th Legislature, Regular Session, 1995), which provide that a district's fiscal records shall be available for public inspection during regular business hours.

Revised Law

Sec. 8512.0403. FILING OF AUDIT REPORT. Copies of the audit report prepared under Subchapter G, Chapter 49, Water Code, shall be certified to by the accountant who performed the audit and filed:

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

(2) with the comptroller. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 7 (part); New.)

Source Law

Sec. 7. . . . Copies of a written report of such audit, certified to by said accountant or accountants, shall be placed and kept on file with the Texas Water Rights Commission, with the Treasurer of the State of Texas and at said official office, and . . . .

Revisor's Note

(1) Section 7, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, refers to various audit procedures, including requirements regarding filing of copies of the audit report. The revised law omits certain of those procedures for the following reasons. Chapter 49, Water Code (enacted by Chapter 715, Acts of the 74th Legislature, Regular Session, 1995), applies to the authority by application of Sections 49.001 and 49.002 of that chapter. As further detailed in the revisor's notes that follow, certain procedural requirements of Section 7, Chapter 75, have been omitted as superseded by Subchapter G, Chapter 49, Water Code. Section 49.191(b), Water Code, provides that Subchapter G "shall take precedence over all prior statutory enactments."

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

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

An amendment to Section 23, Article IV, Texas Constitution, adopted November 7, 1995, abolished the

office of state treasurer effective September 1, 1996. Under Sections 404.0011(a) and (b), Government Code, the state treasurer's powers and duties were transferred to the comptroller, and a reference in law to the state treasurer means the comptroller. The revised law is drafted accordingly.

The revised law omits the requirement that a copy of the audit report be filed at an official office of the authority because it duplicates or is superseded by Section 49.194(c), Water Code.

(2) Section 7, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, provides that the board shall cause a financial audit to be completed within 90 days after the end of each calendar year. The revised law omits that provision as superseded by Sections 49.191(a), (b), and (d), Water Code, which require an annual audit to be completed within 120 days after the close of the authority's fiscal year. The omitted law reads:

> Sec. 7. . . . The Board shall cause to be made and completed within ninety (90) days after the end of each calendar year, an audit of the books of account and financial records of the District for such calendar year, ...

(3) Section 7, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, provides that the audit shall be prepared by the state auditor or an independent certified public accountant or firm of certified public accountants. The revised law omits that provision as superseded by Sections 49.191(b) and (c), Water Code, which provide that the person who performs the audit shall be a certified public accountant or public accountant holding a permit from the Texas State Board of Public Accountancy. The omitted law reads:

> Sec. 7. . . . such audit to be made by the State Auditor, an independent Certified Public Accountant or firm of Certified Public Accountants. . . .

(4) Section 7, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, provides that the filed copies of the audit report shall be open to public inspection at all reasonable times. The revised law omits that provision for the reason stated in the revisor's note to Section 8512.0402. The omitted law reads:

> Sec. 7. . . . [Copies of a written report of such audit] . . . shall be open to public inspection at all reasonable times.

Revised Law

Sec. 8512.0404. ASSET MANAGEMENT PLAN. (a) In this section, "system" means a system for the:

(1) provision of water to the public for human consumption; or

(2) collection and treatment of wastewater.

(b) The authority shall adopt an asset management plan by:

(1) preparing an asset inventory that identifies the assets of each system and the asset's condition;

(2) developing criteria to prioritize assets for repair or replacement, including:

(A) the date by which the asset will need to be repaired or replaced;

(B) the importance of the asset in providing safe drinking water and complying with regulatory standards;

(C) the importance of the asset to the effective operation of the system; and

(D) other criteria the authority determines;

(3) estimating asset repair and replacement costs;

(4) identifying and evaluating potential financing options; and

(5) prioritizing systems that are not in compliance with federal or state regulatory standards, including water quality

standards.

(c) The authority shall review and revise the asset management plan annually to account for regulatory changes and other developments.

(d) The board shall approve the asset management plan annually as part of its budgeting process.

(e) The asset management plan's findings must be posted on the authority's publicly accessible Internet website. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 26.)

Source Law

> Sec. 26. (a) In this section, "system" means a system for the:
>
> (1) provision of water to the public for human consumption; or
>
> (2) collection and treatment of wastewater.
>
> (b) The District shall adopt an asset management plan by:
>
> (1) preparing an asset inventory that identifies the assets of each system and the condition of the assets;
>
> (2) developing criteria to prioritize assets for repair or replacement, including:
>
> (A) the date by which the asset will need to be repaired or replaced;
>
> (B) the importance of the asset in providing safe drinking water and complying with regulatory standards;
>
> (C) the importance of the asset to the effective operation of the system; and
>
> (D) other criteria as determined by the District;
>
> (3) estimating asset repair and replacement costs;
>
> (4) identifying and evaluating potential financing options; and
>
> (5) prioritizing systems that are not in compliance with federal or state regulatory standards, including water quality standards.
>
> (c) The District shall review and revise the asset management plan annually to account for regulatory changes and other developments.
>
> (d) The Board shall approve the asset management plan annually as part of its budgeting process.
>
> (e) The findings of the asset management plan must be posted on the District's publicly accessible Internet website.

Revised Law

Sec. 8512.0405. RATES AND OTHER CHARGES. (a) The board shall impose rates and other charges for the sale or use of water, water connections, power, electric energy, or other services the authority sells, provides, or supplies.

(b) The rates and other charges must be reasonable, nondiscriminatory, and sufficient to provide revenue adequate to:

(1) pay all expenses necessary to the operation, maintenance, and replacement of and the making of additions to the authority's properties and facilities;

(2) pay the principal of, the interest on, and any premium on all bonds issued under this chapter when they become due and payable;

(3) pay all sinking fund or reserve fund payments agreed to be made with respect to any of those bonds and payable out of that revenue when and as they become due and payable;

(4) fulfill the terms of any agreements made with the holders of those bonds or with any person in their behalf; and

(5) discharge all other lawful obligations of the authority when they become due.

(c) The rates and other charges may not exceed the amount that may be necessary to fulfill the obligations imposed on the authority by this chapter. (Acts 43rd Leg., 1st C.S., Ch. 75, Secs. 9(a), (b), (c), (d), (e), (g) (part).)

Source Law

> Sec. 9. The Board shall establish and collect rates and other charges for the sale or use of water, water connections, power, electric energy or all other services sold, furnished, or supplied by the District which fees and charges shall be reasonable and nondiscriminatory and sufficient to produce revenues adequate:
>
> (a) to pay all expenses necessary to the operation and maintenance and replacements and additions to the properties and facilities of the District;
>
> (b) to pay the interest on, the principal of and the premium, if any, on all bonds issued under this Act when and as the same shall become due and payable;
>
> (c) to pay all sinking fund and/or reserve fund payments agreed to be made in respect of any such bonds, and payable out of such revenues, when and as the same shall become due and payable;
>
> (d) to fulfill the terms of any agreements made with the holders of such bonds and/or with any person in their behalf; and
>
> (e) to discharge all other lawful obligations of the District as and when the same shall become due.
>
> . . .
>
> (g) It is the intention of this Act that the rates and charges of the District shall not be in excess of what may be necessary to fulfill the

obligations imposed upon it by this Act. . . .

Revisor's Note

(1) Section 9, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, provides that the authority shall "establish and collect" rates and other charges. Throughout this chapter, the revised law substitutes "impose" or "imposed" for the quoted and similar language because, in context, the language has the same meaning and "impose" and "imposed" are more commonly used.

(2) Section 9, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, refers variously to "rates and other charges," "rates and charges," and "fees and charges." Throughout this chapter, the revised law substitutes "rates and other charges" for "rates and charges," "fees and charges," and similar language for consistency of terminology.

Revised Law

Sec. 8512.0406. USE OF EXCESS REVENUE. If the authority receives revenue in excess of that required for the purposes specified by Sections 8512.0405(b)(1), (2), (3), and (5), the board may:

(1) use the excess revenue to:

(A) establish a reasonable depreciation and emergency fund; or

(B) retire bonds issued under this chapter by purchase and cancellation or redemption; or

(2) apply the excess revenue to any corporate purpose. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 9(f).)

Source Law

(f) Of the revenues which may be received in excess of those required for the purposes specified in subparagraphs (a), (b), (c), and (e) above, the Board may in its discretion establish a reasonable depreciation and emergency fund, or retire (by purchase and cancellation or redemption) bonds issued under this Act, or apply the same to any corporate purpose.

Revised Law

Sec. 8512.0407. PAYMENTS UNDER AGREEMENTS FOR USE OR SALE OF PROPERTY. (a) If the authority enters into an agreement to lease, sell, or otherwise dispose of any property or facilities to any person, the person is subject to the regulations and control of rates or other charges by this state as may be provided by agreement or general law.

(b) Notwithstanding Subsection (a), the board shall set payments under a lease or other contract or agreement for the use or sale of any property so that the payments, together with any other pledged revenue, will be sufficient to:

(1) pay the principal of, the interest on, and any premium on all bonds to which the payments are pledged when they become due and payable;

(2) pay all sinking fund or reserve fund payments agreed to be made with respect to any bonds described by Subdivision (1), and payable out of those payments, when they become due and payable;

(3) fulfill the terms of any agreement made with the holders of bonds described by Subdivision (1) or any person in their behalf; and

(4) discharge all other obligations of the authority in connection with bonds described by Subdivision (1) when they become due. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 9(h).)

Source Law

> (h) In the event the District enters into agreements to lease, sell or otherwise dispose of any property or facilities to any person, such person shall be subject to such regulations and control of fees and/or charges by the State of Texas as may be provided by agreement or General Law, but the Board shall fix payments under such leases or other contracts and agreements for the use or sale of any property in order that such payments, together with any other pledged revenues, will be sufficient to pay the interest on, the principal of and any premium on all bonds to which such payments are pledged when and as the same shall become due and payable; to pay all sinking fund and/or reserve fund payments agreed to be made in respect of any such bonds, and payable out of such payments, when and as the same shall become due and payable; and to fulfill the terms of any agreement

made with the holders of such bonds and/or any person in their behalf and to discharge all other obligations of the District in connection with such bonds as and when the same shall become due.

Revised Law

Sec. 8512.0408. TAX, ASSESSMENT, OR PLEDGE OF CREDIT OF STATE NOT AUTHORIZED BY CHAPTER. This chapter does not authorize the authority to:

(1) impose a tax or assessment;

(2) create any debt payable out of taxes or assessments; or

(3) pledge this state's credit. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 1 (part).)

Source Law

Sec. 1. . . .

Nothing in this Act or in any other Act or law contained, however, shall be construed as authorizing the District to levy or collect taxes or assessments, or to create any indebtedness payable out of taxes or assessments, or in any way to pledge the credit of the State.

Revisor's Note

(1) Section 1, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, provides that nothing in the act or "in any other Act or law contained" may be construed as authorizing the authority to levy or collect taxes or assessments, to create any debt payable out of taxes or assessments, or in any way to pledge the credit of this state. The revised law omits the statement that nothing in any other act or law may be construed as authorizing the authority to take the stated actions because the statement is both unnecessary and potentially misleading. An accepted general principle of statutory construction requires a statute to be given cumulative effect with other statutes unless it provides otherwise or unless the statutes are in conflict. To the extent the statement means the act prevails over other law in existence at the time the

act became effective and with which the act conflicts, it merely restates general rules of statutory construction. To the extent the statement implies the act prevails over future enactments of the legislature that may conflict with it, it is misleading. For example, Section 49.107, Water Code (enacted in 1995), authorizes a district to impose ad valorem taxes for operation and maintenance purposes. Section 311.026, Government Code (Code Construction Act), governs the interpretation of the revised law in instances of apparent conflict with other laws. See also the revisor's note at the end of Subchapter A.

(2) Section 1, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, provides that the act does not authorize the authority to "levy or collect" a tax or assessment. The revised law substitutes "impose" for "levy or collect" because "impose" is the term generally used in Title 1, Tax Code, the term includes the assessment, levying, and collection of a tax or assessment, and the term is consistent with modern usage in laws related to taxes and assessments.

Revisor's Note
(End of Subchapter)

Section 2(s), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, authorizes the authority to invest and reinvest the authority's money. The revised law omits that provision as superseded by Subchapter A, Chapter 2256, Government Code (enacted as Chapter 889, Acts of the 70th Legislature, Regular Session, 1987), which governs the investments of certain public entities. The omitted law reads:

> Sec. 2. . . . [the District shall have and is hereby authorized to exercise

the following powers, rights, privileges, and functions;]

. . .

(s) to invest and re-invest its funds;

. . .

SUBCHAPTER E. BORROWED MONEY AND GRANTS

Revised Law

Sec. 8512.0501. LOANS AND GRANTS. The authority may:

(1) borrow money for the authority's corporate purposes;

(2) borrow money or accept a grant from any person, including this state, the United States, or a corporation or agency created or designated by this state or the United States;

(3) in connection with a loan or grant described by Subdivision (2), enter into any agreement this state, the United States, or the corporation or agency requires;

(4) make and issue the authority's bonds for money borrowed, in the manner and to the extent provided by this chapter; and

(5) refund or refinance any outstanding bonds and make and issue the authority's bonds for those purposes in the manner and to the extent provided by this chapter. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 2(x) (part).)

Source Law

Sec. 2. . . . the District shall have and is hereby authorized to exercise the following powers, rights, privileges, and functions;

. . .

(x) to borrow money for its corporate purposes and, without limitation of the generality of the foregoing, to borrow money and accept grants from persons, including the State of Texas, the United States of America, or from any corporation or agency created or designated by the State of Texas or the United States of America, and, in connection with any such loan or grant, to enter into such agreements as the State of Texas or the United States of America or such corporations or agency may require; and to make and issue its negotiable bonds or notes for moneys borrowed, in the manner and to the extent provided in this Act, and to refund or refinance any outstanding bonds or notes and to make and issue its negotiable bonds or notes therefor in the manner and to the extent provided in this Act. . . .

Revisor's Note

(1) Section 2(x), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, authorizes the authority to issue "negotiable" bonds or notes. The revised law omits the reference to "negotiable" bonds or notes because Section 1201.041, Government Code, provides that a public security is a negotiable instrument. Throughout this chapter, the revised law omits law that is superseded by or duplicates law in Chapter 1201, Government Code (enacted as the Bond Procedures Act of 1981 (Article 717k-6, Vernon's Texas Civil Statutes)), which applies to authority bonds and notes under Sections 1201.002 and 1201.003 of that code.

(2) Section 2(x), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, provides that the act does not authorize the issuance of authority bonds, notes, or other evidences of indebtedness except as specifically provided by the act and that an issuance of authority bonds, notes, or other evidences of indebtedness is not authorized except by the act or general law. The revised law omits those provisions because the limitations contained in the act and general law apply to the issuance of authority bonds, notes, or other evidences of indebtedness without an express reference to those limitations in this section. The omitted law reads:

> Sec. 2. . . .
> (x) . . . Nothing in this Act shall authorize the issuance of any bonds, notes, or other evidences of indebtedness of the District, except as specifically provided in this Act, and no issuance of bonds, notes, or other evidences of indebtedness of the District shall ever be authorized except by this Act or General Law;
> . . .

Revised Law

Sec. 8512.0502. STATE PLEDGE REGARDING RIGHTS AND REMEDIES OF BONDHOLDERS. This chapter does not deprive this state of its power to regulate and control rates or other charges to be imposed for the use of water, water connections, power, electric energy, or another service. This state pledges to and agrees with the purchasers and successive holders of the bonds issued under this chapter that this state will not limit or alter the power this chapter gives the authority to impose rates and other charges that will produce revenue sufficient to pay the items specified by Section 8512.0405(b) or in any way impair the rights or remedies of the bondholders, or of any person in their behalf, until the following are fully discharged:

(1) the bonds;

(2) the interest on the bonds;

(3) any premium;

(4) interest on unpaid installments of interest;

(5) all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders; and

(6) all other authority obligations in connection with the bonds. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 9(g) (part).)

Source Law

> (g) . . . Nothing herein shall be construed as depriving the State of Texas of its power to regulate and control fees and/or charges to be collected for the use of water, water connections, power, electric energy, or other service, provided that the State of Texas does hereby pledge to and agree with the purchasers and successive holders of the bonds issued hereunder that the State will not limit or alter the power hereby vested in the District to establish and collect such fees and charges as will produce revenues sufficient to pay the items specified in subparagraphs (a), (b), (c), (d), and (e) of this Section 9, or in any way to impair the rights or remedies of the holders of the bonds, or of any person in their behalf, until the bonds, together with the interest thereon and any premium, with interest on unpaid installments of interest and all costs and expenses in connection with any action or proceedings by or on behalf of the bondholders and all other obligations of the District in connection with such bonds are fully met and discharged.

Revised Law

Sec. 8512.0503. OBLIGATION PAYABLE FROM REVENUE. An authority debt, liability, or obligation for the payment of money, however entered into or incurred and whether arising from an express or implied contract or otherwise, is payable:

(1) out of the revenue the authority receives with respect to the authority's properties, subject to any prior lien on the revenue conferred by any resolution previously adopted as provided by this chapter authorizing the issuance of bonds; or

(2) if the board so determines, out of the proceeds of sale by the authority of bonds payable solely from revenue described by Subdivision (1). (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 10.)

Source Law

> Sec. 10. Any and every indebtedness, liability or obligation of the District, for the payment of money, however entered into or incurred, and whether arising from contract, implied contract or otherwise, shall be payable (1) out of the revenues received by the District in respect to its properties, subject to any prior lien thereon conferred by any resolution or resolutions theretofore adopted as in this Act provided, authorizing the issuance of bonds or (2), if the Board shall so determine, out of the proceeds of sale by the District of bonds payable solely from such revenues.

Revised Law

Sec. 8512.0504. POWER TO ISSUE BONDS. (a) The authority may issue bonds for any corporate purpose.

(b) The bonds must be authorized by a board resolution. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 11 (part).)

Source Law

> Sec. 11. The District shall have power and is hereby authorized to issue, from time to time, bonds or notes as herein authorized for any corporate purpose. . . . All such bonds shall be authorized by resolution or resolutions of the Board concurred in by at least five (5) of the members thereof, and . . . .

Revisor's Note

(1) Section 11, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, permits the authority to issue bonds or notes "from time to time."

The revised law omits the quoted language for the reason stated in the revisor's note to Section 8512.0315.

(2) Section 11, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, permits the authority to issue bonds or notes "as herein authorized." The revised law omits the quoted language because, to the extent the other provisions of that act govern the issuance of authority bonds, those provisions apply to the issuance of authority bonds without an express reference to those provisions in this section.

(3) Section 11, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, requires that bonds issued by the authority be authorized by a resolution of the board "concurred in by at least five (5) of the members thereof." The revised law omits the quoted language because it duplicates, in substance, Section 4(b) of Chapter 75, revised in pertinent part as Section 8512.0206(b)(2) of this chapter, which provides that bonds, notes, or other evidence of indebtedness must be authorized or ratified by the affirmative vote of at least five directors.

Revised Law

Sec. 8512.0505. TERMS OF ISSUANCE. Authority bonds may be:

(1) sold for cash;

(2) issued on terms the board determines in exchange for property of any kind, or any property interest, that the board considers necessary or convenient for the corporate purpose for which the bonds are issued; or

(3) issued in exchange for like principal amounts of other matured or unmatured authority obligations. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 11 (part).)

Source Law

Sec. 11. . . . Such bonds or notes . . . may either be (1) sold for cash, at public or private sale, . . . (2) may be issued on such terms as the Board shall determine in exchange for property of any kind, real, personal or mixed or any interest therein which the Board shall deem necessary or convenient for any such corporate purpose, or (3) may be issued in exchange for like principal amounts of other obligations of the District, matured or unmatured. . . .

Revisor's Note

(1) Section 11, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, provides that authority bonds or notes may be sold "at public or private sale." The revised law omits the quoted language because it duplicates Section 1201.022(a)(3)(A), Government Code.

(2) Section 11, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, provides that authority bonds or notes may be sold at a price or prices as the board determines. The revised law omits that provision as superseded by general law. Section 1201.022, Government Code, as amended in 2001, provides that an issuer may sell public securities "under the terms determined by the governing body of the issuer to be in the issuer's best interests." In addition, Section 1204.006(b), Government Code (enacted as Section 2, Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes)), provides that an issuer may sell public securities at any price. Section 1204.006(b), Government Code, applies to authority bonds under Sections 1204.001 and 1204.002 of that code.

Although Section 11 was amended by Section 7, Chapter 22, Acts of the 86th Legislature, Regular Session, 2019, it is nevertheless superseded by

general law because the amendments were not substantive or pertinent to the general law. Throughout this chapter, the revised law omits provisions of Section 11 that conflict with general law that, but for the 2019 amendments, was enacted or amended after the omitted provisions. The omitted law reads:

> Sec. 11. . . . [Such bonds or notes . . . may either be (1) sold for cash,] . . . at such price or prices as the Board shall determine, provided that . . . .

Revised Law

Sec. 8512.0506. DEPOSIT OF PROCEEDS. The proceeds of sale of authority bonds shall be deposited in one or more banks or trust companies, and shall be paid out according to the terms, on which the authority and the purchasers of the bonds agree. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 11 (part).)

Source Law

> Sec. 11. . . . The proceeds of sale of such bonds shall be deposited in such bank or banks or trust company or trust companies, and shall be paid out pursuant to such terms and conditions, as may be agreed upon between the District and the purchasers of such bonds. . . .

Revisor's Note

Section 11, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, refers to the "terms and conditions" under which proceeds of the sale of authority bonds shall be paid out. The revised law omits "conditions" as included in the meaning of "terms."

Revised Law

Sec. 8512.0507. RESOLUTION PROVISIONS. (a) A resolution authorizing bonds may contain provisions:

(1) reserving the right to redeem the bonds or requiring the redemption of the bonds, at the time, in the amount, and at the price, not exceeding 105 percent of the principal amount of the bonds, plus accrued interest, as may be provided;

(2) providing for the setting aside of sinking funds or reserve funds and the regulation and disposition of those funds;

(3) pledging, to secure the payment of the principal of and interest on the bonds and of the sinking fund or reserve fund payments agreed to be made with respect to the bonds:

(A) all or any part of the gross or net revenue subsequently received by the authority with respect to the property to be acquired or constructed with the bonds or the proceeds of the bonds; or

(B) all or any part of the gross or net revenue subsequently received by the authority from any source;

(4) prescribing the purposes to which the bonds or any bonds subsequently to be issued, or the proceeds of the bonds, may be applied;

(5) agreeing to impose rates and other charges sufficient to produce revenue adequate to pay the items specified by Section 8512.0405(b) and prescribing the use and disposition of all revenue;

(6) prescribing limitations on the issuance of additional bonds and subordinate lien bonds and on the agreements that may be made with the purchasers and successive holders of those bonds;

(7) with regard to the construction, extension, improvement, reconstruction, operation, maintenance, and repair of the authority's properties and the carrying of insurance on all or any part of those properties covering loss or damage or loss of use and occupancy resulting from specified risks;

(8) setting the procedure, if any, by which the authority may change the terms of a contract with the bondholders, the amount of bonds the holders of which must consent to that change, and the manner in which the consent may be given;

(9) providing for the execution and delivery by the authority to a bank or trust company authorized by law to accept trusts, or to the United States or any officer of the United States,

of indentures and agreements for the benefit of the bondholders setting forth any or all of the agreements authorized by this chapter to be made with or for the benefit of the bondholders and any other provisions that are customary in such indentures or agreements; and

(10) approved by the board that are not inconsistent with this chapter.

(b) A provision authorized by this section that is contained in a bond resolution is part of the contract between the authority and the bondholders. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 11 (part).)

Source Law

> Sec. 11. . . . Any resolution or resolutions authorizing any bonds may contain provisions, which shall be part of the contract between the District and the holders thereof from time to time.
>
> (a) Reserving the right to redeem such bonds or requiring the redemption of such bonds, at such time or times, in such amounts and at such prices, not exceeding one hundred and five per centum (105%) of the principal amount thereof, plus accrued interest, as may be provided;
>
> (b) Providing for the setting aside of sinking funds or reserve funds and the regulation and disposition thereof;
>
> (c) Pledging to secure the payment of the principal of and interest on such bonds and of the sinking fund or reserve fund payments agreed to be made in respect of such bonds all or any part of the gross or net revenues thereafter received by the District in respect of the property, real, personal or mixed, to be acquired and/or constructed with such bonds or the proceeds thereof, or all or any part of the gross or net revenues thereafter, received by the District from whatever source derived;
>
> (d) Prescribing the purposes to which such bonds or any bonds thereafter to be issued, or the proceeds thereof, may be applied;
>
> (e) Agreeing to fix and collect rates and charges sufficient to produce revenues adequate to pay the items specified in subdivisions (a), (b), (c), (d), and (e) of Section 9 hereof, and prescribing the use and disposition of all revenues;
>
> (f) Prescribing limitations upon the issuance of additional bonds and subordinate lien bonds and upon the agreements which may be made with the purchasers and successive holders thereof;
>
> (g) With regard to the construction, extension, improvement, reconstruction, operation, maintenance and repair of the properties of the District and carrying of insurance upon all or any part of said properties covering loss or damage or loss of use and occupancy resulting from specified risks;
>
> (h) Fixing the procedure, if any, by which, if the District shall so desire, the terms of any contract

with the holders of such bonds may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(i) For the execution and delivery by the District to a bank or trust company authorized by law to accept trusts, or to the United States of America or any officer or agency thereof, of indentures and agreements for the benefit of the holders of such bonds setting forth any or all of the agreements herein authorized to be made with or for the benefit of the holders of such bonds and such other provisions as may be customary in such indentures or agreements; and

(j) Such other provisions, not inconsistent with the provisions of this Act, as the Board may approve.

. . .

Revisor's Note

(1) Section 11, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, provides that provisions of the resolution authorizing bonds are "part of the contract between the District and the holders thereof from time to time." The revised law omits "from time to time" because, to the extent the language modifies "the contract [made]," the power to make a contract includes the power to do so at any time, and to the extent the language modifies "the holders [of authority bonds]," "bondholder" includes anyone holding a bond at any time the statute is read.

(2) Section 11(h), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, provides that the authority may set the procedure, if any, by which the terms of bond contracts may be "amended or abrogated." The revised law substitutes "change" for the quoted language because, in context, the terms have the same meaning and "change" is more commonly used.

(3) Section 11(i), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, refers to the "United States of America or any . . . agency thereof." The revised law omits the reference to an agency of the United States because under Section

311.005(9), Government Code (Code Construction Act), "United States" includes an agency of the United States.

Revised Law

Sec. 8512.0508. DEFAULT PROCEDURES. (a) This section applies only to a default in:

(1) the payment of the principal of bonds as they become due and payable, whether at maturity, by call for redemption, or otherwise;

(2) the payment of the interest on bonds as the interest becomes due and payable; or

(3) the performance of an agreement made with the purchasers or successive holders of bonds.

(b) A resolution authorizing bonds and any indenture or agreement entered into under the resolution may provide that in the event of a default described by Subsection (a) that continues for a period, if any, prescribed by the resolution, the trustee under the indenture entered into with respect to the bonds authorized by the resolution, or, if there is no indenture, a trustee appointed in the manner provided by the resolution by the holders of 25 percent in aggregate principal amount of the bonds authorized by the resolution and then outstanding, and on the written request of the holders of 25 percent in aggregate principal amount of the bonds authorized by the resolution then outstanding, shall, in the trustee's own name, but for the equal and proportionate benefit of the holders of all of the bonds, and with or without having possession of the bonds:

(1) enforce by mandamus or other action or proceeding at law or in equity all rights of the bondholders;

(2) bring an action on the bonds or the related coupons;

(3) require by action in equity the authority to account as if it were the trustee of an express trust for the bondholders;

(4) enjoin by action in equity any acts or things that may be unlawful or in violation of the rights of the bondholders; or

(5) after such notice to the authority as the resolution may provide, declare the principal of all of the bonds due and payable, and if all defaults have been satisfied, then with the written consent of the holders of 25 percent in aggregate principal amount of the bonds then outstanding, annul the declaration and its consequences.

(c) Notwithstanding Subsection (b), the holders of more than a majority in principal amount of the bonds authorized by the resolution and then outstanding, by written instrument delivered to the trustee, are entitled to direct and control any and all action taken or to be taken by the trustee under this section.

(d) A resolution, indenture, or agreement relating to bonds may provide that in an action or proceeding under this section, the trustee, whether or not all of the bonds have been declared due and payable and with or without possession of any of the bonds, is entitled to the appointment of a receiver who may:

(1) enter and take possession of all or any part of the properties of the authority;

(2) operate and maintain the properties;

(3) impose rates and other charges sufficient to provide revenue adequate to pay the items specified by Section 8512.0405(b) and the costs and disbursements of the action or proceeding; and

(4) apply the revenue in accordance with this chapter and the resolution authorizing the bonds.

(e) In an action or proceeding by a trustee under this section, the reasonable fees, attorney's fees, and expenses of the trustee and of the receiver, if any, constitute taxable disbursements, and all costs and disbursements allowed by the court are a first charge on any revenue pledged to secure the payment of the bonds.

(f) The courts of Comal County have jurisdiction of an

action or proceeding by a trustee on behalf of the bondholders and of all property involved in the action or proceeding.

(g) In addition to the powers specifically provided by this section, a trustee has all powers necessary or appropriate for the exercise of the powers specifically provided or incident to the general representation of the bondholders in the enforcement of their rights. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 11(j)(1), (2).)

Source Law

(j) . . .

(1) Any such resolution and any indenture or agreement entered into pursuant thereto may provide that in the event that:

(a) default shall be made in the payment of the interest on any or all bonds when and as the same shall become due and payable, or;

(b) default shall be made in the payment of the principal of any or all bonds when and as the same shall become due and payable, whether at the maturity thereof, by call for redemption or otherwise, or;

(c) default shall be made in the performance of any agreement made with the purchasers or successive holders of any bonds;

(2) And such default shall have continued such period, if any, as may be prescribed by said resolution in respect thereof, the trustee under the indenture or indentures entered into in respect of the bonds authorized thereby, or, if there shall be no such indenture, a trustee appointed in the manner provided in such resolution or resolutions by the holders of twenty-five per centum (25%) in aggregate principal amount of the bonds authorized thereby and at that time outstanding, and upon the written request of the holders of twenty-five per centum (25%) in aggregate principal amount of the bonds authorized by such resolution or resolutions at the time outstanding, shall, in his or its own name, but for the equal and proportionate benefit of the holders of all the such bonds; and with or without having possession thereof;

(a) by mandamus or other suit, action or proceeding at law or in equity, enforce all rights of the holders of such bonds;

(b) bring suit upon such bonds and/or the appurtenant coupons;

(c) by action or suit in equity, require the District to account as if it were the trustee of an express trust for the bondholders;

(d) by action or suit in equity, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds, and/or;

(e) after such notice to the District as such resolution may provide, declare the principal of all of such bonds due and payable, and if all defaults shall have been made good, then with the written consent of the holders of twenty-five (25) per centum in aggregate principal amount of such bonds at the time outstanding, annul such declaration and its

consequences; provided, however, that the holders of more than a majority in principal amount of the bonds authorized thereby and at the time outstanding shall by instrument or instruments in writing delivered to such trustee have the right to direct and control any and all action taken or to be taken by such trustee under this paragraph. Any such resolution, indenture or agreement may provide that in any such suit, action, or proceeding, any such trustee, whether or not all of such bonds shall have been declared due and payable, and with or without possession of any thereof, shall be entitled as of right to the appointment of a receiver who may enter and take possession of all or any part of the properties of the District, and operate and maintain the same, and fix, collect, and receive rates and charges sufficient to provide revenues adequate to pay the items set forth in subparagraphs (a), (b), (c), (d) and (e) of Section 9 hereof and the costs and disbursements of such suit, action or proceeding, and to apply such revenues in conformity with the provisions of this Act and the resolution or resolutions authorizing such bonds. In any suit, action or proceeding by any such trustee, the reasonable fees, counsel fees and expenses of such trustee and of the receiver or receivers, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the Court shall be a first charge upon any revenues pledged to secure the payment of such bonds. Subject to the provisions of the Constitution of the State of Texas, the courts of the County of Comal shall have jurisdiction of any suit, action or proceeding by any such trustee on behalf of the bondholders and of all property involved therein. In addition to the powers hereinabove specifically provided for, each such trustee shall have and possess all powers necessary or appropriate for the exercise of any thereof, or incident to the general representation of the bondholders in the enforcement of their rights.

. . .

Revisor's Note

(1) Sections 11(j)(2)(a) and (e), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, refer to a "suit" or "action." The revised law omits "suit" because that term is included in the meaning of "action."

(2) Section 11(j)(2)(e), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, provides that a resolution, indenture, or agreement may provide that in a suit, action, or proceeding, a trustee "shall be entitled as of right" to the appointment of a receiver. The revised law substitutes "is entitled to" for the quoted language because under Section 311.016(4), Government Code (Code Construction Act),

"is entitled to" creates or recognizes a right.

(3) Section 11(j)(2)(e), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, refers to "counsel fees" incurred in a suit, action, or proceeding by a trustee. The revised law substitutes "attorney's fees" for "counsel fees" because, in context, the terms have the same meaning and "attorney's fees" is more commonly used.

(4) Section 11(j)(2)(e), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, provides that "[s]ubject to the provisions of the Constitution of the State of Texas," the courts of Comal County have jurisdiction of a suit, action, or proceeding by a trustee. The revised law omits the reference to the Texas Constitution because the state cannot modify constitutional requirements by statute.

Revised Law

Sec. 8512.0509. INTERIM BONDS. (a) Before issuing definitive bonds, the authority may make and issue interim bonds.

(b) The interim bonds issued shall be taken up with the proceeds of the definitive bonds, or the definitive bonds may be issued and delivered in exchange for the interim bonds.

(c) After an exchange of definitive bonds for interim bonds, the authority shall file certificates with the comptroller as to the exchange and cancellation, and the comptroller shall register the certificates in the same manner as the proceedings authorizing the issuance of the bonds are registered. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 11(j)(3) (part).)

Source Law

(3) Pending the issuance of definitive bonds, the District is authorized to make and issue interim bonds. The interim bonds so issued will be taken up with the proceeds of the definitive bonds, or the definitive bonds may be issued and delivered in exchange for and in substitution of such interim bonds. After any such exchange and substitution the District shall file proper certificates with the Comptroller of Public Accounts of the State of Texas as

to such exchange, substitution and cancellation, and such certificates shall be recorded by the Comptroller of Public Accounts in the same manner as the record of proceedings authorizing the issuance of the bonds. . . .

Revisor's Note

(1) Section 11(j)(3), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, refers to the issuance and delivery of definitive bonds "in exchange for and in substitution of" interim bonds. The revised law omits the references to "substitution" because, in context, "substitution" is included in the meaning of "exchange."

(2) Section 11(j)(3), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, refers to the filing of "proper certificates" with the comptroller as to the exchange of definitive bonds for interim bonds and the cancellation of the interim bonds. The revised law omits "proper" because an improper certificate would not satisfy the requirements of law.

(3) Section 11(j)(3), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, refers to the "Comptroller of Public Accounts of the State of Texas." The revised law substitutes "comptroller" for the quoted language because Section 403.001, Government Code, defines "comptroller" in any state statute to mean the comptroller of public accounts of the State of Texas.

(4) Section 11(j)(3), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, provides that the certificates as to the exchange of definitive bonds for interim bonds and the cancellation of the interim bonds shall be "recorded" by the comptroller in the same manner as the record of proceedings authorizing the issuance of the bonds. The revised law

requires the comptroller to "register" the certificates in the same manner as the proceedings authorizing the issuance of the bonds are "registered" because Section 1202.005, Government Code (enacted in 1987 as Section 3.002(c), Chapter 53, Acts of the 70th Legislature, 2nd Called Session (Article 717k-8, Vernon's Texas Civil Statutes)), requires the comptroller to "register" the record of proceedings. Throughout this chapter, the revised law omits law that is superseded by or duplicates law in Chapter 1202, Government Code, which applies to authority bonds under Sections 1202.001 and 1202.003 of that code.

Revised Law

Sec. 8512.0510. TEMPORARY BONDS. The authority may make and issue temporary bonds for the purpose of interim financing and make agreements or other provision to refinance the temporary bonds with bonds to provide permanent financing at the time, in the manner, and on the conditions the board determines. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 11(j)(3) (part).)

Source Law

(3) . . . The District is also authorized to make and issue temporary bonds for the purpose of interim financing and to make agreements or other provision to refinance such temporary bonds with bonds to provide permanent financing at such time, in such manner and on such conditions as may be determined by the Board.

Revised Law

Sec. 8512.0511. REFUNDING BONDS. (a) The authority may make and issue refunding bonds for the purpose of refunding or refinancing outstanding bonds authorized and issued by the authority under this chapter or other law and the interest and premium, if any, on the bonds to maturity or on any earlier redemption date specified in the resolution authorizing the issuance of the refunding bonds.

(b) Refunding bonds may:

(1) be issued to refund more than one series of outstanding bonds;

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

(3) be secured by other or additional revenue.

(c) The provisions of this chapter regarding the issuance of bonds, the terms and provisions of bonds, and the remedies of the bondholders apply to refunding bonds.

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

(e) Instead of issuing bonds to be registered on the surrender and cancellation of the bonds to be refunded, the authority, in the resolution authorizing the issuance of refunding bonds, may provide for the sale of the refunding bonds and the deposit of the proceeds at the places at which the bonds to be refunded are payable. In that case, the refunding bonds may be issued in an amount sufficient to pay the interest and premium, if any, on the bonds to be refunded to their maturity date or specified earlier redemption date, and the comptroller shall register the refunding bonds without the concurrent surrender and cancellation of the bonds to be refunded.

(f) The authority may also refund outstanding bonds in the manner provided by any applicable general law. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 11(j)(7).)

Source Law

> (7) The District is authorized to make and issue bonds or notes (herein called "refunding bonds") for the purpose of refunding or refinancing any outstanding bonds or notes authorized and issued by the District pursuant to this Act or other law (herein called "bonds") and the interest and premium, if any, thereon to maturity or on any earlier redemption date specified in the resolution authorizing the issuance of the refunding bonds. Such refunding bonds may be issued to refund more than one series of outstanding bonds, may combine the pledges of the outstanding bonds for the security of the refunding bonds or may be secured by other or additional revenues. All provisions of this Act with reference to the issuance of bonds, the terms and provisions thereof, their approval by the Attorney General, and the remedies of the bondholders shall be applicable to refunding

bonds. Refunding bonds shall be registered by the Comptroller upon surrender and cancellation of the bonds to be refunded, but in lieu thereof, the resolution authorizing the issuance of refunding bonds may provide that they shall be sold and the proceeds thereof deposited at the places at which the original bonds are payable, in which case the refunding bonds may be issued in an amount sufficient to pay the interest and premium, if any, on the original bonds to their maturity date or specified earlier redemption date, and the Comptroller will register them without concurrence, surrender and cancellation of the original bonds. The District may also refund any outstanding bonds in the manner provided by any applicable General Law.

Revisor's Note

(1) Section 11(j)(7), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, refers to provisions of Chapter 75 referencing the "approval [of authority bonds] by the Attorney General" and applies those provisions to refunding bonds. The revised law omits the quoted language because that language and the provisions of the chapter it refers to are superseded by Section 1202.003, Government Code (enacted in 1987 as Section 3.002(a), Chapter 53, Acts of the 70th Legislature, 2nd Called Session (Article 717k-8, Vernon's Texas Civil Statutes)), which provides for approval of public securities by the attorney general.

(2) Section 11(j)(7), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, refers to the comptroller's registration of certain refunding bonds "without concurrence, surrender and cancellation of the original bonds." It is clear from the context that "concurrence" is a typographical error and that the legislature intended to use the phrase "without concurrent surrender and cancellation of the original bonds." The revised law is drafted accordingly.

Revised Law

Sec. 8512.0512. POWER OF AUTHORITY TO PURCHASE BONDS ISSUED

BY AUTHORITY. (a) Using any money available for the purpose, the authority may purchase bonds issued by the authority at a price not exceeding the redemption price applicable at the time of the purchase, or, if the bonds are not redeemable, at a price not exceeding the principal amount of the bonds plus accrued interest.

(b) All bonds purchased under this section shall be cancelled, and bonds may not be issued in lieu of those bonds. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 14.)

Source Law

> Sec. 14. The District shall have power out of any funds available therefor to purchase any bonds issued by it at a price not exceeding the redemption price applicable at the time of such purchase, or if such bonds shall not be redeemable, at a price not exceeding the principal amount thereof plus accrued interest. All bonds so purchased shall be cancelled and no bonds shall ever be issued in lieu thereof.

Revisor's Note

Section 14, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, refers to "funds" available to the authority. The revised law substitutes "money" for "funds" for the reason stated in Revisor's Note (1) to Section 8512.0208.

Revised Law

Sec. 8512.0513. BONDS EXEMPT FROM TAXATION. A bond issued under this chapter and the interest on the bond are exempt from taxation, except inheritance taxes, by this state or by any political subdivision of this state. (Acts 43rd Leg., 1st C.S., Ch. 75, Sec. 16 (part).)

Source Law

> Sec. 16. All bonds and the interest thereon issued pursuant to the provisions of this Act shall be exempt from taxation (except inheritance taxes) by the State of Texas or by any municipal corporation, county or other political subdivision or taxing district of the State. . . .

Revisor's Note

Section 16, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, refers to a "municipal corporation, county or other political

subdivision or taxing district of the State." The revised law omits the references to "municipal corporation," "county," and "taxing district" because, in context, the terms are included in the meaning of "political subdivision" of this state.

Revisor's Note
(End of Subchapter)

(1) Section 11, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, provides that the interest cost of money received for authority bonds or notes, computed to maturity, may not exceed 10 percent per year. That section also provides that the interest rate on authority bonds may not exceed 10 percent per year. The revised law omits those provisions as superseded by other law. Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes), now Chapter 1204, Government Code, established a maximum interest rate for public securities. Section 1204.006, Government Code, reflecting the 1981 amendment of Article 717k-2 by Section 1, Chapter 61, Acts of the 67th Legislature, Regular Session, 1981, permits a public agency to issue public securities at any net effective interest rate of 15 percent or less. Section 1204.006, Government Code, applies to authority bonds under Sections 1204.001 and 1204.002 of that code. The omitted law reads:

> Sec. 11. . . . [Such bonds or notes . . . may either be (1) sold for cash, . . . at such price or prices as the Board shall determine, provided that] the interest cost of the money received therefor, computed to maturity, shall not exceed ten (10) percent per annum, or . . . . [All such bonds . . . shall . . . bear interest at such rate or rates] . . . (not exceeding ten (10) per centum per annum), . . . [as such resolution or resolutions may provide.] . . .

(2) Section 11, Chapter 75, Acts of the 43rd

Legislature, 1st Called Session, 1933, provides that a resolution authorizing the issuance of bonds by the authority may specify the date or dates of the bonds and the date of maturity of the bonds. The revised law omits that provision because it duplicates, in substance, parts of Sections 1201.021, 1201.022, and 1201.024, Government Code, which provide for the characteristics, terms of issuance, and form of a public security. The omitted law reads:

> Sec. 11. . . . [All such bonds] . . . shall bear such date or dates, mature at such time or times, . . . as such resolution or resolutions may provide. . . .

(3) Section 11, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, provides that authority bonds may bear interest at the rate or rates as provided by the bond resolution and that the interest rate may be fixed, variable, floating, or otherwise. The revised law omits that provision because it duplicates Sections 1201.021(2) and 1201.025, Government Code. The omitted law reads:

> Sec. 11. . . . [All such bonds . . . shall] . . . bear interest at such rate or rates which may be fixed, variable, floating or otherwise . . . [as such resolution or resolutions may provide.] . . .

(4) Section 11, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, provides that interest on authority bonds may be payable annually, semiannually, or otherwise, as provided by the bond resolution. The revised law omits that provision because it duplicates, in substance, Section 1201.021(5), Government Code, which provides that a public security may be payable at the times and in the amounts specified by the governing body of the issuer. The omitted law reads:

> Sec. 11. . . . [All such bonds . . .

> shall . . . bear interest at such rate or rates . . . ,] payable annually, semiannually or otherwise, . . . [as such resolution or resolutions may provide.] . . .

(5) Section 11, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, provides that authority bonds may be in the denominations provided by the bond resolution. The revised law omits that provision because it duplicates, in substance, Section 1201.021(1), Government Code, which provides that a public security may be issued in any denomination. The omitted law reads:

> Sec. 11. . . . [All such bonds . . . shall] . . . be in such denominations, . . . [as such resolution or resolutions may provide.] . . .

(6) Section 11, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, provides that a resolution authorizing the issuance of bonds by the authority may specify the form of the bonds. The revised law omits the provision because it is superseded by or duplicates law in Sections 1201.021 and 1201.024, Government Code, which provide for the form and characteristics of a public security. The omitted law reads:

> Sec. 11. . . . [All such bonds . . . shall] . . . be in such form, either coupon or registered, . . . [as such resolution or resolutions may provide.] . . .

(7) Section 11, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, describes registration and exchange privileges for authority bonds. The revised law omits those provisions because they duplicate, in substance, Section 1201.022(a)(4), Government Code, and part of Section 1201.024, Government Code. Section 1201.022(a)(4), Government Code, provides that a public security may be issued with specified characteristics, on specified terms, or

in a specified manner, and that law is sufficient authority for authority bonds to be exchangeable for bonds of another denomination. Section 1201.024, Government Code, provides that a public security may be registrable as to principal and interest or only as to principal and that an issuer may provide that coupon bonds are exchangeable for registered bonds and vice versa. The omitted law reads:

> Sec. 11. . . . [All such bonds . . . shall] . . . carry such registration privileges as to principal only or as to both principal and interest, and as to exchange of coupon bonds for registered bonds or vice versa, and exchange of bonds of one denomination for bonds of other denominations, . . . [as such resolution or resolutions may provide.] . . .

(8) Section 11, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, provides that a resolution that authorizes the issuance of authority bonds may specify the manner of execution of the bonds issued. The revised law omits that provision because it duplicates, in substance, Section 1201.026, Government Code, which provides for execution of a public security. The omitted law reads:

> Sec. 11. . . . [All such bonds . . . shall] . . . be executed in such manner and . . . [as such resolution or resolutions may provide.] . . .

(9) Section 11, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, provides that authority bonds may be payable at the place or places inside or outside this state as provided by the bond resolution. The revised law omits that provision because it duplicates, in substance, Section 1201.021(5)(C), Government Code, which provides that a public security may be payable at a specified place or places. The omitted law reads:

> Sec. 11. . . . [All such bonds . . . shall] . . . be payable at such place or

places within or without the State of Texas, [as such resolution or resolutions may provide.] . . .

(10) Section 11(j)(4), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, provides that before bonds may be sold by the authority, a certified copy of the proceedings for the issuance of the bonds and other information must be submitted to the attorney general. It also provides that if the attorney general finds that the bonds have been issued in accordance with law and approves the bonds, the attorney general shall execute a certificate to that effect. In addition, it requires that the certificate be filed and recorded in the office of the comptroller and prohibits the issuance of bonds until they have been registered by the comptroller. Section 11(j)(4) also requires the comptroller to register the bonds if the attorney general files with the comptroller the attorney general's certificate approving the bonds and the proceedings for the issuance of the bonds. Finally, Section 11(j)(6), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, provides that the attorney general shall approve bonds that have been authorized in compliance with law. The revised law omits those provisions because they are superseded by or duplicate law in Chapter 1202, Government Code (enacted as Article 3, Chapter 53, Acts of the 70th Legislature, 2nd Called Session, 1987 (Article 717k-8, Vernon's Texas Civil Statutes)). Section 1202.003(a), Government Code, requires bonds to be submitted to the attorney general. Section 1202.003(b), Government Code, provides for approval of the bonds by the attorney general and requires the attorney general to submit the approved bonds to the comptroller for registration. Section 1202.005,

Government Code, requires registration of the bonds by the comptroller. The omitted law reads:

> (4) Before any bonds shall be sold by the District, a certified copy of the proceedings for the issuance thereof, including the form of such bonds, together with any other information which the Attorney General of the State of Texas may require, shall be submitted to the Attorney General, and if he shall find that such bonds have been issued in accordance with law, and if he shall approve such bonds, he shall execute a certificate to that effect which shall be filed in the office of the Comptroller of the State of Texas and be recorded in a record kept for that purpose. No bonds shall be issued until the same shall have been registered by the Comptroller, who shall so register the same if the Attorney General shall have filed with the Comptroller his certificate approving the bonds and the proceedings for the issuance thereof as hereinabove provided.
>
> (6) . . . If such bonds have been authorized and [such contracts made] in compliance with law, the Attorney General shall approve the bonds and . . . the bonds shall then be registered by the Comptroller of Public Accounts. . . .

(11) Section 11(j)(5), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, provides that after approval and registration, authority bonds are incontestable and binding obligations. The revised law omits that provision because it is superseded by or duplicates law in Section 1202.006, Government Code (enacted as Section 3.002(d), Chapter 53, Acts of the 70th Legislature, 2nd Called Session, 1987 (Article 717k-8, Vernon's Texas Civil Statutes)), which provides that after approval and registration, bonds are incontestable and binding obligations. The omitted law reads:

> (5) All bonds approved by the Attorney General as aforesaid, and registered by the Comptroller as aforesaid, and issued in accordance with the proceedings so approved shall be valid and binding obligations of the District and shall be incontestable for any cause from and after the time of such registration.

(12) Section 11(j)(6), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, details various procedures regarding the submission of contracts the proceeds of which are pledged to the payment of bonds, together with related proceedings, to the attorney general, the attorney general's approval of the bond contracts, and the validity and incontestability of the approved bonds and bond contracts. The revised law omits the part of Section 11(j)(6) regarding the submission of bond contracts and related proceedings to the attorney general and the attorney general's approval of the bond contracts as duplicative of or superseded by Section 1202.003, Government Code (enacted as Section 3.002(a), Chapter 53, Acts of the 70th Legislature, 2nd Called Session, 1987 (Article 717k-8, Vernon's Texas Civil Statutes)), which provides that the issuer of a public security shall submit to the attorney general the public security and record of proceedings and provides for the attorney general's approval of the public security. The revised law omits the part of Section 11(j)(6) regarding the validity and incontestability of bonds and bond contracts as duplicative of or superseded by Section 1202.006, Government Code (enacted as Section 3.002(d), Chapter 53, Acts of the 70th Legislature, 2nd Called Session, 1987 (Article 717k-8, Vernon's Texas Civil Statutes)), which provides that after approval and registration of bonds, the bonds and bond contracts are not contestable for any reason. The omitted law reads:

> (6) If any bonds recite that they are secured by a pledge of the proceeds of a contract, lease, sale or other agreement (herein called 'contract'), a copy of such contract and the proceedings of the contracting parties will also be submitted to the Attorney General. [If such bonds

> have been authorized and] such contracts made [in compliance with law, the Attorney General shall approve the bonds and] contracts, and . . . . When so approved, such bonds and the contracts shall be valid and binding and shall be incontestable for any cause from and after the time of such registration.

(13) Section 12, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, provides that authority bonds are investment securities within the meaning of the Uniform Commercial Code. The revised law omits that provision because it duplicates Section 1201.041(2), Government Code. The omitted law reads:

> Sec. 12. All bonds issued by the District pursuant to the provisions of this Act shall constitute investment securities within the meaning of the Uniform Commercial Code.

(14) Section 16, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, lists the entities for which authority bonds are legal investments and provides that authority bonds may secure deposits of public funds of this state or political subdivisions of this state. The revised law omits the provision relating to the eligibility of authority bonds to be considered as investments for various entities because it duplicates, in substance, Section 49.186(a), Water Code, which provides that bonds, notes, and other obligations of a district are legal and authorized investments for public funds of this state and certain investors. While Section 16 lists "guardians" and Section 49.186(a), Water Code, does not, Section 49.186(a) includes "fiduciaries," and a guardian is a fiduciary. The revised law omits the provision relating to the use of authority bonds as security for deposits of state funds as impliedly repealed by Section 404.0221, Government Code (enacted in 1995), which lists eligible collateral for deposits of state funds by the comptroller, and by Section

404.031, Government Code (enacted in 1985 as Section 3.001, Article 4393-1, Vernon's Texas Civil Statutes), which provides for the valuation of that collateral. As to securing deposits of other funds, the provision is impliedly repealed by Chapter 2257, Government Code (enacted in 1989 as Article 2529d, Vernon's Texas Civil Statutes), which governs eligible collateral for deposits of funds of other public agencies, including political subdivisions, and permits those deposits to be secured by obligations issued by conservation and reclamation districts. The omitted law reads:

> Sec. 16. . . . All bonds of the District shall be and are hereby declared to be legal, eligible and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all unmatured coupons appurtenant thereto.

Revisor's Note
(End of Chapter)

(1) Section 2(y), Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, provides that the act prevails over the provisions of general law that are adopted by reference in the act unless the general law is made cumulative. The revised law omits the provision because it duplicates, in substance, Section 311.026(b), Government Code (Code Construction Act), which provides that if there is an irreconcilable conflict between a general provision of law and a special or local provision, the special or local provision prevails unless the general provision

is the later enactment and the manifest intent is that the general provision prevail. The omitted law reads:

> Sec. 2. . . . [Without limitation of the generality of the foregoing, the District shall have and is hereby authorized to exercise the following powers, rights, privileges, and functions;]
>
> . . .
>
> (y) . . . To the extent the provisions of General Law which are adopted by reference in this Act may be in conflict with the express provisions of this Act, the provisions of this Act shall prevail unless the General Law is made cumulative. . . .

(2) Section 19, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, appropriated money to the authority and required that the authority repay any appropriated money withdrawn by the authority. The revised law omits the provision appropriating money to the authority as executed. The revised law omits the provision requiring the authority to repay any appropriated money withdrawn by the authority because the authority has confirmed that any money withdrawn has been repaid. The omitted law reads:

> Sec. 19. There is hereby appropriated for the use of the District out of any funds in the State Treasury not heretofore otherwise appropriated the sum of Five Thousand Dollars ($5,000) which may be withdrawn from time to time on warrant signed by the General Manager and Treasurer of the District. Provided however, that this money shall be repaid the State of Texas.

(3) Section 20, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, and Section 4, Chapter 432, Acts of the 61st Legislature, Regular Session, 1969, provide that those acts are severable. The revised law omits those provisions because the same result is produced by the application of Section 311.032, Government Code (Code Construction Act), which provides that a provision of a statute is severable from each other provision of the statute

that can be given effect. The omitted law reads:

> [Acts 43rd Leg., 1st C.S., Ch. 75]
>
> Sec. 20. If any provision of this Act or the application thereof to any person or circumstances shall be held to be invalid, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

> [Acts 61st Leg., R.S., Ch. 432]
>
> Sec. 4. If any word, phrase, clause, sentence or part of this Act shall be held by any court of competent jurisdiction to be invalid or unconstitutional, it shall not affect any other word, phrase, clause, sentence or part of this Act, and such remaining portions shall remain in full force and effect.

(4) Section 21, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, was added to Chapter 75 by Chapter 410, Acts of the 44th Legislature, 1st Called Session, 1935. Chapter 75 as originally enacted created the Guadalupe River Authority. Chapter 410 amended Chapter 75 in its entirety. As amended by Chapter 410, Chapter 75 created the Guadalupe-Blanco River Authority. Section 21 provides that Chapter 410 does not have the effect of repealing Chapter 75 and that the Guadalupe River Authority continues with all the powers, rights, and duties conferred by Chapter 75 but that the Guadalupe River Authority may, by resolution of its board of directors, dissolve and merge with the Guadalupe-Blanco River Authority. On December 14, 1935, the board of directors of the Guadalupe River Authority adopted a resolution dissolving that authority and merging it with the Guadalupe-Blanco River Authority. Accordingly, the revised law omits Section 21 as executed. The omitted law reads:

> Sec. 21. This Act shall not have the effect of repealing the Act passed by the Forty-third Legislature at the First Called Session, being Chapter 75 of said Acts, but the Guadalupe River Authority, a conservation and reclamation district

created by virtue thereof, shall continue with all the powers, rights and duties conferred by said Act; provided, however, that said Guadalupe River Authority may, by resolution of its board of directors, dissolve and merge with the district hereby created.

(5) Section 22, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, provides a short title for that chapter. The revised law omits the short title because Chapter 75 is not a statute of wide application that is frequently referred to by its short title, and the heading to this chapter is sufficient to describe the revised law to the reader. The omitted law reads:

Sec. 22. This Act may be cited as the Guadalupe-Blanco River Authority Act.

(6) Section 3, Chapter 432, Acts of the 61st Legislature, Regular Session, 1969, Section 2, Chapter 433, Acts of the 64th Legislature, Regular Session, 1975, and Section 13, Chapter 22, Acts of the 86th Legislature, Regular Session, 2019, contain legislative findings relating to the performance of certain requirements under the constitution and other laws and rules, including proper legal notice and the filing of recommendations. The revised law omits those provisions as executed. The omitted law reads:

[Acts 61st Leg., R.S., Ch. 432]
Sec. 3. It is determined and found that a proper and written notice of the intention to introduce this Act setting forth the general substance of this Act has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas in a newspaper having a general circulation in the counties in which said District or part thereof is located; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to this Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives within thirty (30) days from the date such notice and Act were received by the Texas Water

Rights Commission; and that all the requirements and provisions of Article XVI, Section 59d, Constitution of the State of Texas, have been fulfilled and accomplished as herein provided.

[Acts 64th Leg., R.S., Ch. 433]

Sec. 2. It is determined and found that a proper and written notice of the intention to introduce this Act setting forth the general substance of this Act has been published at least 30 days and not more than 90 days prior to the introduction of this Act in the Legislature of Texas in a newspaper having a general circulation in the counties in which said district or part thereof is located; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed is recommendations as to this Act with the governor, lieutenant governor and speaker of the house of representatives within 30 days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article XVI, Section 59d, Constitution of the State of Texas, have been fulfilled and accomplished as herein provided, and that any applicable requirements and provisions of Article XVI, Section 59e, Constitution of the State of Texas, have been fulfilled and accomplished.

[Acts 86th Leg., R.S., Ch. 22]

Sec. 13. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

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

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

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

(7) Section 3, Chapter 433, Acts of the 64th Legislature, Regular Session, 1975, provides that

Chapter 433 does not apply to or affect any litigation instituted before the effective date of Chapter 433 that questions the legality of any acts taken or proceedings had by the board or the authority before that effective date. The revised law omits the provision as executed and because Section 311.031(a), Government Code (Code Construction Act), provides that the reenactment, revision, amendment, or repeal of a statute does not affect matters occurring before or pending on the reenactment, revision, amendment, or repeal of the statute. The omitted law reads:

> Sec. 3. This Act does not apply to or affect any litigation instituted prior to the effective date of this Act which questions the legality of any acts taken or proceedings had by the board or the district prior to said effective date.

(8) Section 12, Chapter 22, Acts of the 86th Legislature, Regular Session, 2019, provides that the repeal of Section 8, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, does not apply to an offense committed before the effective date of Chapter 22. The revised law omits Section 12 of Chapter 22 because it is executed law and because under Section 311.031(a)(3), Government Code (Code Construction Act), the reenactment, revision, amendment, or repeal of a statute does not affect any violation of the statute or any penalty, forfeiture, or punishment incurred under the statute before its amendment or repeal. The omitted law reads:

> Sec. 12. The repeal by this Act of Section 8, Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933, does not apply to an offense committed before the effective date of this Act. An offense committed before the effective date of this Act is governed by the law as it existed on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the

offense occurred before that date.

(9) Section 1, Chapter 45, Acts of the 58th Legislature, Regular Session, 1963, authorizes the West Side Calhoun County Navigation District to sell its water supply system to the Guadalupe-Blanco River Authority. The navigation district sold the Calhoun Canal System to the authority in 1963. Accordingly, the revised law omits the provision as executed. The omitted law reads:

> Sec. 1. That West Side Calhoun County Navigation District, a political subdivision of the State of Texas with principal office in Long Mott, Texas, is hereby authorized to sell its properties and facilities constituting its water supply system for the supply of water for irrigation, industrial and other beneficial uses, and everything appurtenant thereto, to Guadalupe-Blanco River Authority, a political subdivision of the State of Texas with principal office in New Braunfels, Texas, upon such terms and conditions as may be approved by the respective governing bodies of said District and said Authority.

(10) Section 2, Chapter 45, Acts of the 58th Legislature, Regular Session, 1963, validates the lease-purchase option agreement between the West Side Calhoun County Navigation District and the authority dated November 21, 1962, and supplements to the agreement dated December 14, 1962, under which the district leased its water supply system to the authority and granted the authority an option to purchase the system. The revised law omits that section because it served its purpose on the day it took effect and, thus, is executed law. Section 311.031(a)(2), Government Code (Code Construction Act), provides that the repeal of a statute does not affect any validation previously made under the statute. Therefore, the omission of the executed validation provision does not affect the validation. The omitted law reads:

Sec. 2. That certain "Lease-Purchase Option Agreement" executed for and on behalf of said District and said Authority bearing date of November 21, 1962, and supplements thereto dated December 14, 1962, under which said District leased said water supply properties, facilities and appurtenances to said Authority and granted the Authority an option to purchase the same upon the terms and provisions therein stated, is hereby validated, ratified and confirmed.

CHAPTER 8515. UPPER GUADALUPE RIVER AUTHORITY

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CHAPTER 8515. UPPER GUADALUPE RIVER AUTHORITY

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 8515.0101. DEFINITIONS. In this chapter:

(1) "Authority" means the Upper Guadalupe River Authority.

(2) "Board" means the authority's board of directors.

(3) "Director" means a board member. (Acts 46th Leg., R.S., p. 1062, S.L., Ch. 5, Sec. 1 (part); New.)

Source Law

Sec. 1. . . . [a . . . district] . . . to be

known as Upper Guadalupe River Authority hereinafter called the "District," . . . .

Revisor's Note

(1) Although Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, refers to the authority as the "District," throughout this chapter the revised law substitutes "authority" for "district" to more closely conform to the name of the authority.

(2) The definitions of "board" and "director" are added to the revised law for drafting convenience and to eliminate frequent, unnecessary repetition of the substance of the definitions.

Revised Law

Sec. 8515.0102. NATURE OF AUTHORITY. The authority is a conservation and reclamation district in Kerr County created under Section 59, Article XVI, Texas Constitution. (Acts 46th Leg., R.S., p. 1062, S.L., Ch. 5, Secs. 1 (part), 10(b)(d) (part).)

Source Law

Sec. 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Kerr County, Texas, . . . which shall be a governmental agency and a body politic and corporate.

[Sec. 10(b)]
(d) The district is a conservation and reclamation district under Article XVI, Section 59, of the Texas Constitution and . . . .

Revisor's Note

(1) Section 1, Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, provides that the authority is "hereby created and established." The revised law omits the quoted language as executed.

(2) Section 1, Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, refers to the authority as "a governmental agency and a body politic and corporate." The revised

law omits those references because they duplicate part of Section 59(b), Article XVI, Texas Constitution.

Revised Law

Sec. 8515.0103. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The authority is created to serve a public use and benefit.

(b) All property in the authority will benefit from the works and projects the authority will accomplish under the powers conferred by Section 59, Article XVI, Texas Constitution.

(c) The authority's creation is essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

(d) The authority performs an essential public function under the Texas Constitution in carrying out the purposes of this chapter because the accomplishment of those purposes is for the benefit of the people of this state and the improvement of their properties and industries. (Acts 46th Leg., R.S., p. 1062, S.L., Ch. 5, Secs. 1 (part), 4, 22 (part).)

Source Law

> Sec. 1. . . . The creation and establishment of the District is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59 of the Constitution of Texas.
>
> Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the District will be benefited by the works and projects which are to be accomplished by the District pursuant to the powers conferred by the provisions of Article 16, Section 59, of the Constitution of Texas, and that said District was and is created to serve a public use and benefit.
>
> Sec. 22. The accomplishment of the purposes stated in this Act being for the benefit of the people of this State and for the improvement of their properties and industries, the District in carrying out the purpose of this Act will be performing an essential public function under the Constitution, and . . . .

Revisor's Note

(1) Section 1, Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, provides that the "creation and establishment" of the authority is essential to accomplish the

purposes of Section 59, Article XVI, Texas Constitution. The revised law omits "establishment" because its meaning is included in the meaning of "creation."

(2) Section 4, Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, refers to "land and other property" in the "area and boundaries" of the authority. The revised law omits the reference to "land" because under Section 311.005(4), Government Code (Code Construction Act), "property" includes real property and "land" is included in the meaning of real property. The revised law omits the reference to the authority's "area and boundaries" because, in context, the meaning of those terms is included in "authority."

Revised Law

Sec. 8515.0104. REVIEW SCHEDULE UNDER SUNSET ACT. A review of the authority under Section 325.025, Government Code, shall be conducted as if the authority were a state agency scheduled to be abolished September 1, 2035, and every 12th year after that year. (Acts 46th Leg., R.S., p. 1062, S.L., Ch. 5, Sec. 1A(a) (part).)

Source Law

(a) . . . The review shall be conducted under Section 325.025, Government Code, as if the District were a state agency scheduled to be abolished September 1, 2035, and every 12th year after that year.

Revisor's Note

Sections 1A(a) and (b), Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, relate to a periodic review of the authority by the Sunset Advisory Commission. Section 1A(a) provides, in part, that the authority is subject to review under Chapter 325, Government Code, as if it were a state agency, but may not be abolished under that chapter. Section 1A(b) provides that the

authority must pay the costs associated with the Sunset Advisory Commission's review of the authority. The revised law omits those provisions because they duplicate Sections 325.025(a), (b), and (d), Government Code. The omitted law reads:

> Sec. 1A. (a) The District is subject to review under Chapter 325, Government Code (Texas Sunset Act), but may not be abolished under that chapter. . . .
>
> (b) The District shall pay the cost incurred by the Sunset Advisory Commission in performing the review. The Sunset Advisory Commission shall determine the cost, and the District shall pay the amount promptly on receipt of a statement from the Sunset Advisory Commission detailing the cost.

Revised Law

Sec. 8515.0105. TERRITORY. (a) The authority is composed of the territory described by Subsection (b) as that territory may have been modified under:

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

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

(3) other law.

(b) The authority includes all territory in the boundaries of Kerr County. (Acts 46th Leg., R.S., p. 1062, S.L., Ch. 5, Sec. 2; New.)

Source Law

> Sec. 2. The District shall comprise all of the territory contained within and have the same boundaries as Kerr County, Texas.

Revisor's Note

The revision of the law governing the authority revises the statutory language describing the authority's territory. Because the authority's boundaries are subject to change, that description may not be accurate on the effective date of the revision or at the time of a later reading. For the reader's convenience, the revised law includes a reference to:

(1) the statutory authority to change the

authority's territory under:

(A) Subchapter J, Chapter 49, Water Code, applicable to the authority under Sections 49.001 and 49.002 of that code; and

(B) Subchapter O, Chapter 51, Water Code, applicable to the authority under Section 5, Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, revised in part as Section 8515.0301 of this chapter; and

(2) the legislature's general authority to enact a law to change the authority's territory.

Revised Law

Sec. 8515.0106. CERTAIN STATUTES NOT APPLICABLE TO AUTHORITY. (a) The authority is created notwithstanding the provisions of Chapter 160, Acts of the 58th Legislature, Regular Session, 1963 (former Article 970a, Vernon's Texas Civil Statutes), as those provisions existed on June 17, 1965, and those provisions do not apply to the authority.

(b) Any conflict between this section and subsequent amendments to provisions described by Subsection (a) or the subsequent codification of provisions described by Subsection (a) in the Local Government Code is governed by the rules of statutory construction, including Sections 311.025(a) and 311.026, Government Code (Code Construction Act). (Acts 46th Leg., R.S., p. 1062, S.L., Ch. 5, Sec. 13; New.)

Source Law

> Sec. 13. This district is hereby created notwithstanding any of the provisions of the Municipal Annexation Act, being Chapter 160, Acts of the 58th Legislature, 1963 (Article 970a, Vernon's Texas Civil Statutes), as amended, and said Municipal Annexation Act shall have no application to this District.

Revisor's Note

(1) Section 13, Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, provides that the authority is created

notwithstanding the provisions of Article 970a, Vernon's Texas Civil Statutes (Municipal Annexation Act), and that Article 970a does not apply to the authority. While the provision relating to creation would normally be omitted as executed, the revised law retains the provision to preserve the ambiguity relating to the applicability of the provisions of Article 970a. It is unclear whether only those provisions of Article 970a that relate to creation of the authority are intended to have no applicability or whether all provisions of Article 970a are intended to have no applicability. The revised law is drafted accordingly.

(2) Section 13, Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, refers to "the Municipal Annexation Act, being Chapter 160, Acts of the 58th Legislature, 1963 (Article 970a, Vernon's Texas Civil Statutes)." For the reader's convenience, the revised law includes a reference to the enacting session law citation of former Article 970a, now repealed in the regular course of statutory revision. To ensure that the codification of Chapter 5 does not affect the relative dates of enactment necessary to resolve a conflict between Chapter 5 and amendments adopted to former Article 970a subsequent to the date of enactment of Chapter 5, as amended by Chapter 632, Acts of the 59th Legislature, Regular Session, 1965, or to the subsequent codification of Article 970a in the Local Government Code, the revised law includes a reference to the date of enactment of Chapter 5. For the reader's convenience, the revised law also adds a reference to the rules of statutory construction, including applicable provisions of the Code

Construction Act (Chapter 311, Government Code) used in resolving conflicts between statutes.

SUBCHAPTER B. BOARD OF DIRECTORS; ADMINISTRATIVE PROVISIONS

Revised Law

Sec. 8515.0201. MEMBERSHIP OF BOARD. (a) The board consists of nine directors appointed by the governor.

(b) To be appointed as a director, a person must:

(1) be 18 years of age or older; and

(2) reside and own land in Kerr County. (Acts 46th Leg., R.S., p. 1062, S.L., Ch. 5, Secs. 9(a) (part), (b) (part).)

Source Law

> Sec. 9. (a) All powers of the District shall be exercised by a Board of nine (9) Directors. . . . No person shall be appointed a Director unless such person is twenty-one (21) years of age or over and a resident of Kerr County and owns land therein. . . .
>
> (b) Directors are appointed by the Governor. . . .

Revisor's Note

(1) Section 9(a), Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, provides that "[a]ll powers of the District shall be exercised by" the board. The revised law omits the quoted language because it duplicates, in substance, parts of Sections 49.051 and 49.057, Water Code, which provide that the authority is governed by the board and the board is responsible for the authority's management. Throughout this chapter, the revised law omits law that is superseded by or duplicates law in Chapter 49, Water Code, applicable to the authority under Sections 49.001 and 49.002 of that code.

(2) Section 9(a), Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, states that a person must be "twenty-one (21) years of age or over" to be appointed as a director. The revised law substitutes "18 years of age or older"

for the quoted language because Section 129.001, Civil Practice and Remedies Code, establishes 18 years of age as the age of majority in this state. Section 129.002, Civil Practice and Remedies Code, provides that a law adopted before August 27, 1973, that extends a right, privilege, or obligation to an individual on the basis of a minimum age of 19, 20, or 21 years shall be interpreted as prescribing a minimum age of 18 years. Section 9 was enacted in 1939, and the part of that section relating to a minimum age of 21 years has not been amended.

Revised Law

Sec. 8515.0202. TERMS. Directors serve staggered four-year terms, with four or five directors' terms expiring on February 1 of each odd-numbered year. (Acts 46th Leg., R.S., p. 1062, S.L., Ch. 5, Secs. 9(a) (part), (b) (part).)

Source Law

> (a) . . . Each director shall serve for his term of office as herein provided, and . . . .
>
> (b) . . . Directors are appointed for staggered terms of four years with either four or five Directors' terms expiring on February 1 of each odd-numbered year. . . .

Revisor's Note

Section 9(a), Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, provides that a director continues to serve the director's term of office provided in Chapter 5 until the director's successor is appointed and qualified. The revised law omits that provision because it duplicates Section 17, Article XVI, Texas Constitution, which provides that an officer of this state continues to perform the officer's official duties until a successor has qualified. The omitted law reads:

> (a) . . . [Each Director shall serve for his term of office as herein provided,

and] thereafter until his successor shall be appointed and qualified. . . .

Revised Law

Sec. 8515.0203. REMOVAL. (a) It is a ground for removal from the board that a director:

(1) does not have at the time of taking office the qualifications required by Sections 8515.0201 and 8515.0205;

(2) does not maintain during service on the board the qualifications required by Sections 8515.0201 and 8515.0205;

(3) is ineligible for directorship under Chapter 171, Local Government Code;

(4) cannot, because of illness or disability, discharge the director's duties for a substantial part of the director's term; or

(5) is absent from more than half of the regularly scheduled board meetings that the director is eligible to attend during a calendar year without an excuse approved by a majority vote of the board.

(b) The validity of a board action is not affected by the fact that it is taken when a ground for removal of a director exists.

(c) If the general manager has knowledge that a potential ground for removal exists, the general manager shall notify the board president of the potential ground. The president shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the president, the general manager shall notify the next highest ranking director, who shall then notify the governor and the attorney general that a potential ground for removal exists. (Acts 46th Leg., R.S., p. 1062, S.L., Ch. 5, Sec. 9A.)

Source Law

Sec. 9A. (a) It is a ground for removal from the Board that a Director:

(1) does not have at the time of taking office the qualifications required by Section 9(a) of this Act;

(2) does not maintain during service on the Board the qualifications required by Section 9(a)

of this Act;

(3) is ineligible for directorship under Chapter 171, Local Government Code;

(4) cannot, because of illness or disability, discharge the Director's duties for a substantial part of the Director's term; or

(5) is absent from more than half of the regularly scheduled Board meetings that the Director is eligible to attend during a calendar year without an excuse approved by a majority vote of the Board.

(b) The validity of an action of the Board is not affected by the fact that it is taken when a ground for removal of a Director exists.

(c) If the general manager has knowledge that a potential ground for removal exists, the general manager shall notify the President of the Board of the potential ground. The President shall then notify the Governor and the Attorney General that a potential ground for removal exists. If the potential ground for removal involves the President, the general manager shall notify the next highest ranking Director, who shall then notify the Governor and the Attorney General that a potential ground for removal exists.

Revisor's Note

Section 9A, Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, provides that a director may be removed for not having, at the time the director takes office, or maintaining, during the director's term, certain qualifications required by "Section 9(a) of this Act." The relevant provisions of Section 9(a), Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, are revised as Sections 8515.0201 and 8515.0205 of this chapter, and the revised law is drafted accordingly.

Revised Law

Sec. 8515.0204. VACANCY. The governor shall fill a vacancy on the board by appointing a person for the unexpired term. (Acts 46th Leg., R.S., p. 1062, S.L., Ch. 5, Sec. 9(b) (part).)

Source Law

(b) . . . The Governor shall fill a vacancy on the Board by appointment for the unexpired term.

Revised Law

Sec. 8515.0205. OATH AND BOND REQUIREMENT FOR DIRECTORS. (a) Each director shall:

(1) take the constitutional oath of office; and

(2) execute a bond for $5,000, conditioned on the faithful performance of the director's duties.

(b) The authority shall pay the cost of the bond. (Acts 46th Leg., R.S., p. 1062, S.L., Ch. 5, Sec. 9(a) (part).)

Source Law

> (a) . . . Each Director shall subscribe to the oath of office and shall give bond in the amount of Five Thousand Dollars ($5,000) for the faithful performance of his duties, the cost of which shall be borne by the District. . . .

Revisor's Note

Section 9(a), Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, requires a director to subscribe to the "oath of office." The quoted language is a reference to the constitutional oath of office, which is prescribed by Section 1, Article XVI, Texas Constitution. The revised law substitutes "constitutional oath of office" for "oath of office" for clarification.

Revised Law

Sec. 8515.0206. OFFICERS. (a) The governor shall designate a director as president to serve in that capacity at the will of the governor. The president is the authority's chief executive officer and the board's presiding officer.

(b) The board shall elect from the board's membership a vice president, a secretary, and any other officers the board determines necessary. (Acts 46th Leg., R.S., p. 1062, S.L., Ch. 5, Secs. 9(b) (part), (c) (part).)

Source Law

> (b) . . . The Governor shall designate a Director as the president of the Board to serve in that capacity at the pleasure of the Governor. . . .
>
> (c) The Board of Directors shall elect from its number a vice president and a secretary of the Board of Directors and of the District, and such other officers as in the judgment of the Board are necessary. The president, as designated by the Governor, shall be chief executive officer of the District and the presiding officer of the Board, and . . . .

Revisor's Note

Section 9(b), Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, provides that the president of the authority serves in that office "at the pleasure" of the governor. The revised law substitutes "at the will" for "at the pleasure" because "at the will" is the more commonly used phrase to describe the termination of an individual's appointment that is at the discretion of another person.

Revised Law

Sec. 8515.0207. VOTE BY PRESIDENT. The president has the same right to vote as any other director. (Acts 46th Leg., R.S., p. 1062, S.L., Ch. 5, Sec. 9(c) (part).)

Source Law

(c) . . . [The president] . . . shall have the same right to vote as any other Director. . . .

Revisor's Note

Section 9(c), Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, provides that the president "shall have" the same right to vote as any other director. Throughout this chapter, in this and similar contexts, the revised law substitutes "has" or "may," or variations of those terms, for the quoted or similar language because the language and those terms have the same meaning and "has" and "may" are more commonly used.

Revised Law

Sec. 8515.0208. ABSENCE OR INACTION OF PRESIDENT. When the president is absent or fails or declines to act, the vice president shall perform all duties and exercise all powers this chapter or general law confers on the president. (Acts 46th Leg., R.S., p. 1062, S.L., Ch. 5, Sec. 9(c) (part).)

Source Law

(c) . . . The vice president shall perform all duties and exercise all power conferred by this Act or the general law upon the president when the president is absent or fails or declines to act. . . .

Revised Law

Sec. 8515.0209. DUTY OF SECRETARY; ABSENCE OF SECRETARY FROM BOARD MEETING. (a) The secretary shall keep and sign the minutes of each board meeting and is the custodian of the authority's minutes and records.

(b) If the secretary is absent from a board meeting, the board shall name a secretary pro tem for the meeting who may:

(1) exercise all powers and duties of the secretary for the meeting;

(2) sign the minutes of the meeting; and

(3) attest all orders passed or other action taken at the meeting. (Acts 46th Leg., R.S., p. 1062, S.L., Ch. 5, Sec. 9(c) (part).)

Source Law

(c) . . . The secretary shall keep and sign the minutes of the meetings of the Board of Directors; and in the secretary's absence at any board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, sign the minutes thereof, and attest all orders passed or other action taken at such meeting. The secretary shall be the custodian of all minutes and records of the District.

Revised Law

Sec. 8515.0210. SEPARATION OF POLICY-MAKING AND MANAGEMENT FUNCTIONS. The board shall develop and implement policies that clearly separate the board's policy-making responsibilities and the general manager's and staff's management responsibilities. (Acts 46th Leg., R.S., p. 1062, S.L., Ch. 5, Sec. 9(f).)

Source Law

(f) The Board shall develop and implement policies that clearly separate the policy-making responsibilities of the Board and the management responsibilities of the general manager and the staff of the District.

Revised Law

Sec. 8515.0211. DIRECTOR TRAINING PROGRAM. (a) A person who is appointed to and qualifies for office as a director may not vote, deliberate, or be counted as a director in attendance at a board meeting until the person completes a training program that complies with this section.

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

(1) the law governing the authority's operations;

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

(3) the scope of and limitations on the board's rulemaking authority;

(4) the results of the authority's most recent formal audit;

(5) the requirements of:

(A) laws relating to open meetings, public information, administrative procedure, and disclosing conflicts of interest; and

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

(6) any applicable ethics policies adopted by the authority or the Texas Ethics Commission.

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

(d) The general manager shall create a training manual that includes the information required by Subsection (b). The general manager shall distribute a copy of the training manual annually to each director. Each director shall sign and submit to the general manager a statement acknowledging that the director has received and reviewed the training manual. (Acts 46th Leg., R.S., p. 1062, S.L., Ch. 5, Sec. 9B.)

Source Law

Sec. 9B. (a) A person who is appointed to and qualifies for office as a Director may not vote, deliberate, or be counted as a Director in attendance at a meeting of the Board until the person completes a training program that complies with this section.

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

(1) the law governing District operations;

(2) the programs, functions, rules, and budget of the District;

(3) the scope of and limitations on the rulemaking authority of the Board;

(4) the results of the most recent formal audit of the District;

(5) the requirements of:

(A) laws relating to open meetings, public information, administrative procedure, and disclosing conflicts of interest; and

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

(6) any applicable ethics policies adopted by the District or the Texas Ethics Commission.

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

(d) The general manager of the District shall create a training manual that includes the information required by Subsection (b) of this section. The general manager shall distribute a copy of the training manual annually to each Director. Each Director shall sign and submit to the general manager a statement acknowledging that the Director received and has reviewed the training manual.

Revised Law

Sec. 8515.0212. GENERAL MANAGER. The board shall appoint a general manager of the authority. (Acts 46th Leg., R.S., p. 1062, S.L., Ch. 5, Sec. 9(d) (part).)

Source Law

(d) The Board shall appoint a general manager of the District and . . . .

Revised Law

Sec. 8515.0213. COMPLAINTS. (a) The authority shall maintain a system to promptly and efficiently act on complaints filed with the authority.

(b) The authority shall maintain information about the parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and the complaint's disposition.

(c) The authority shall periodically notify the parties to the complaint of the complaint's status until final disposition, unless the notice would jeopardize an investigation.

(d) The authority shall make information available describing the authority's procedures for complaint investigation and resolution. (Acts 46th Leg., R.S., p. 1062, S.L., Ch. 5, Sec. 9C.)

Source Law

> Sec. 9C. (a) The District shall maintain a system to promptly and efficiently act on complaints filed with the District. The District shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.
>
> (b) The District shall make information available describing its procedures for complaint investigation and resolution.
>
> (c) The District shall periodically notify the complaint parties of the status of the complaint until final disposition, unless the notice would jeopardize an investigation.

Revised Law

Sec. 8515.0214. PUBLIC TESTIMONY. The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the authority's jurisdiction. (Acts 46th Leg., R.S., p. 1062, S.L., Ch. 5, Sec. 9D.)

Source Law

> Sec. 9D. The Board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the Board and to speak on any issue under the jurisdiction of the District.

Revisor's Note
(End of Subchapter)

(1) Section 9(a), Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, states that a majority of directors constitutes a quorum. The revised law omits that provision because it duplicates, in substance, Section 311.013, Government Code (Code Construction Act), which provides that a quorum of a public body is a majority

of the number of members fixed by statute. The omitted law reads:

> (a) . . . A majority of Directors shall constitute a quorum.

(2) Section 9(d), Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, requires the board to employ certain employees. The revised law omits that provision because it duplicates, in substance, part of Section 49.057, Water Code, which authorizes the board to employ the specified employees. The omitted law reads:

> (d) [The Board shall appoint] . . . all necessary engineers, attorneys, auditors, and other employees.

(3) Section 9(e), Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, requires the board to adopt a seal for the authority. The revised law omits that provision because it duplicates Section 49.061, Water Code. The omitted law reads:

> (e) The Board shall adopt a seal for the District.

SUBCHAPTER C. POWERS AND DUTIES

Revised Law

Sec. 8515.0301. GENERAL POWERS AND DUTIES. (a) The authority has the rights, powers, privileges, and duties provided by general law applicable to a water control and improvement district created under Section 59, Article XVI, Texas Constitution, including those provided by Chapters 49 and 51, Water Code.

(b) The authority may exercise the powers necessary to accomplish the rights and duties specified in Section 59, Article XVI, Texas Constitution, as provided by Chapters 51 and 54, Water Code.

(c) The authority may construct or acquire projects the board determines are needed and incident or related to the

performance of the rights and duties described by Subsection (b). (Acts 46th Leg., R.S., p. 1062, S.L., Ch. 5, Secs. 5 (part), 10(b)(d) (part); New.)

Source Law

> Sec. 5. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority and duties conferred and imposed by the General Laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59 of the Constitution; but to the extent that the provisions of any such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. . . .
>
> [Sec. 10(b)]
> (d) . . . The district may exercise the powers necessary to accomplish each of the rights and duties specified in Article XVI, Section 59, of the Texas Constitution as provided by Chapters 51 and 54, Water Code. The district may construct or acquire those projects that the board determines are needed and incident to or related to the performance of those rights and duties.

Revisor's Note

(1) Section 5, Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, refers to the authority's "powers" and "authority." Throughout this chapter, the revised law omits the reference to "authority" because, in context, it is included in the meaning of "powers."

(2) Section 5, Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, provides that the authority has all rights, powers, privileges, authority, and duties conferred and imposed by the general laws of this state "now in force or hereafter enacted" applicable to water control and improvement districts, "but to the extent that the provisions of any such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail."

The revised law omits "now in force" as unnecessary under general principles of statutory

construction. The "general laws of this state" means those laws "in force" at the time the provision was adopted.

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

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

(3) Section 5, Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, refers to the general laws "applicable to water control and improvement districts." For the reader's convenience, the revised law adds references to Chapter 51, Water Code, specifically applicable to water control and improvement districts, and to Chapter 49, Water Code.

(4) Section 5, Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session,

1939, provides that all general laws applicable to water control and improvement districts not in conflict or inconsistent with the provisions of the act are incorporated by reference. The revised law omits that provision because the part of Section 5, Chapter 5, that is revised in this section already provides that those laws apply to the authority, and it is unnecessary to further incorporate those laws in this chapter. The omitted law reads:

> Sec. 5. . . . All such General Laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act.

Revised Law

Sec. 8515.0302. ADDITIONAL POWERS. (a) The authority may:

(1) control, develop, store, and preserve the waters and flood waters of the Upper Guadalupe River and its tributaries inside or outside the authority for a beneficial or useful purpose;

(2) purchase, acquire, build, construct, improve, extend, reconstruct, repair, and maintain any dam, structure, waterworks system, sanitary sewer system, storm sewer system, drainage system, irrigation system, building, waterway, pipeline, distribution system, ditch, lake, pond, reservoir, plant, and recreational facility for public use, and any other facility or equipment in aid of a purpose described by Subdivision (1);

(3) purchase or otherwise acquire a necessary site, easement, right-of-way, land, or other property necessary for a purpose described by Subdivision (1); and

(4) sell water and other services.

(b) The authority may use any practical means to exercise a right, power, privilege, or function of the authority. (Acts 46th Leg., R.S., p. 1062, S.L., Ch. 5, Sec. 16(a).)

Source Law

> Sec. 16. (a) Without limiting the powers granted to the District by this Act, the District shall specifically have the right, power, privilege, function and authority to control, develop, store and

preserve the waters and flood waters of the Upper Guadalupe River and its tributaries within or without the boundaries of the District for any beneficial or useful purpose and to purchase, acquire, build, construct, improve, extend, reconstruct, repair and maintain any and all dams, structures, waterworks systems, sanitary or storm sewer or drainage or irrigation systems, buildings, waterways, pipelines, distribution systems, ditches, lakes, ponds, reservoirs, plants, and recreational facilities for public use and any and all other facilities or equipment in aid thereof, and to purchase or acquire the necessary sites, easements, rights-of-way, land or other properties necessary thereof and to do any and all acts and things which may be necessary to the exercise of any and all of the rights, powers, privileges, functions and authority of the District, and same may be accomplished by any and all practical means, and the District may sell water and other services.

Revisor's Note

Section 16(a), Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, provides that "[w]ithout limiting the powers granted to the District by this Act," the authority has certain powers. The revised law omits the quoted language because it is an accepted general principle of statutory construction that a grant of a right, power, privilege, or function does not act as a limitation. Additionally, Section 311.021(2), Government Code (Code Construction Act), provides that it is presumed that, in enacting a statute, the entire statute is intended to be effective.

Revised Law

Sec. 8515.0303. CONSERVATION AND DEVELOPMENT. The authority shall conserve and develop this state's natural resources in the authority. (Acts 46th Leg., R.S., p. 1062, S.L., Ch. 5, Sec. 10(b)(d) (part).)

Source Law

(d) [The district] . . . shall conserve and develop the natural resources of this state within the district. . . .

Revised Law

Sec. 8515.0304. COST OF RELOCATING OR ALTERING PROPERTY. (a) In this section, "sole expense" means the actual cost of

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

(b) If the authority's exercise of the power of eminent domain, police power, or any other power requires relocating, raising, lowering, rerouting, changing the grade of, or altering the construction of a railroad, pipeline, or electric transmission, telegraph or telephone line, conduit, pole, property or facility, the required action shall be accomplished at the authority's sole expense. (Acts 46th Leg., R.S., p. 1062, S.L., Ch. 5, Sec. 12.)

Source Law

> Sec. 12. In the event that the District, in the exercise of the power of eminent domain or police power, or any other power, requires the relocation, raising, lowering, re-routing, or change in grade or alteration in the construction of any railroad, electric transmission, telegraph or telephone lines, conduits, poles, properties or facilities, or pipelines, all such relocation, raising, lowering, re-routing, or changes in grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, re-routing, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Revised Law

Sec. 8515.0305. POWERS RELATING TO GRANTS AND CONTRACTS. The authority may accept grants or contract with any person in connection with or in aid of the exercise of any right, power, privilege, or function of the authority. (Acts 46th Leg., R.S., p. 1062, S.L., Ch. 5, Sec. 3.)

Source Law

> Sec. 3. The District is empowered to accept grants or to contract with the United States Government or the State of Texas or any agency, arm, branch, department, or political subdivision thereof, or any municipality, city, town, or any public or private corporation, or firm or person in connection with the exercise of any right, power, privilege, function or authority of this District or in aid thereof.

Revisor's Note

Section 3, Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, authorizes the authority to accept grants or contract with "the United States Government or the State of Texas or any agency, arm, branch, department, or political subdivision thereof, or any municipality, city, town, or any public or private corporation, or firm or person." The revised law substitutes "any person" for the quoted language because Section 311.005(2), Government Code (Code Construction Act), defines "person" to include any legal entity.

Revised Law

Sec. 8515.0306. POWERS RELATING TO WASTE FACILITIES. As a necessary aid to the conservation, control, preservation, and distribution of the water of the Upper Guadalupe River and its tributaries for beneficial use, the authority may:

(1) construct, own, and operate sewage collection, transmission, and disposal services;

(2) charge for a service described by Subdivision (1); and

(3) enter into contracts with municipalities and others in connection with a service described by Subdivision (1).

(Acts 46th Leg., R.S., p. 1062, S.L., Ch. 5, Sec. 16(b).)

Source Law

(b) As a necessary aid to the conservation, control, preservation, and distribution of such water for beneficial use, the Authority shall have the power to construct, own and operate sewage gathering, transmission and disposal services, to charge for such service, and to make contracts in reference thereto with municipalities and others.

Revisor's Note

Section 16(b), Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, provides that the authority may operate sewage "gathering" services. The revised law substitutes

"collection" for "gathering" because, in context, the terms have the same meaning and "collection" is more commonly used.

Revised Law

Sec. 8515.0307. NOTICE OF ELECTION. Notice of an election may be given under the hand of the president or secretary. (Acts 46th Leg., R.S., p. 1062, S.L., Ch. 5, Sec. 20.)

Source Law

> Sec. 20. Notice of all elections may be given under the hand of either the president or the secretary of the District.

Revisor's Note
(End of Subchapter)

(1) Section 10(b)(e), Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, provides that the authority is a district under Chapter 30, Water Code, that Chapter 30 applies to the authority, and that in the event of a conflict between the act and Chapter 30, the act prevails. The revised law omits the portion of the provision providing that the authority is a district under Chapter 30, Water Code, and that Chapter 30 applies to the authority as unnecessary because Section 30.003, Water Code, defines the term "district" to include any river authority and therefore Chapter 30, Water Code, applies to the authority on its own terms. The revised law omits the portion of the provision relating to the act prevailing over a conflicting provision of general law for the reason provided in Revisor's Note (2) to Section 8515.0301. The omitted law reads:

> (e) The district is a district under Chapter 30, Water Code, and that chapter applies to the district except to the extent that the chapter conflicts with this Act, in which case this Act prevails. . . .

(2) Section 10(b)(e), Chapter 5, page 1062,

Special Laws, Acts of the 46th Legislature, Regular Session, 1939, states that any political subdivision may contract with the authority under Chapter 30, Water Code, provided that any city may contract with the authority in the manner authorized by Section 30.030(c), Water Code. Section 10(b)(e) further states that the authority and any political subdivision have certain rights and powers authorized by Chapter 30, Water Code. The revised law omits those provisions as duplicative of Chapter 30, Water Code, which grants the same rights and powers and applies to political subdivisions, including the authority and cities, on its own terms. The omitted law reads:

> (e) . . . All cities, public agencies, and other political subdivisions are authorized to contract with the district in any manner authorized by Chapter 30, Water Code, provided that any city may contract with the district in the manner authorized by Subsection (c), Section 30.030, Water Code. The district and all cities, public agencies, and other political subdivisions contracting with the district have all of the rights and authority relating to the control, storage, preservation, transmission, treatment, and disposition of storm water, floodwater, water of rivers and streams, and underground water that are granted, permitted, and authorized by Chapter 30, Water Code.

(3) Section 21, Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, authorizes the board to canvass the returns of all elections and provides a time period for the canvass to occur. The revised law omits that provision because it is superseded by or duplicates general law. Section 67.002, Election Code, requires the governing body of a political subdivision that orders an election to canvass the returns. Additionally, Section 67.003, Election Code, provides the manner for setting the time period

for a canvass to occur. Throughout this chapter, the revised law omits law that is superseded by or duplicates law in the Election Code, which was enacted in 1985 and applies to the authority under Section 1.002 of that code. The omitted law reads:

> Sec. 21. The returns of all elections may be canvassed by the Board of Directors of the District at any time within seven (7) days after the holding of an election, or as soon thereafter as reasonably practicable.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Revised Law

Sec. 8515.0401. TAX METHOD. The authority shall use the ad valorem plan of taxation. (Acts 46th Leg., R.S., p. 1062, S.L., Ch. 5, Sec. 8.)

Source Law

> Sec. 8. The ad valorem plan of taxation shall be used by the District.

Revised Law

Sec. 8515.0402. DEPOSITORY. (a) The board shall select one or more banks or trust companies in this state to act as a depository of bond proceeds or of revenue derived from the operation of authority facilities.

(b) The depository shall, as determined by the board:

(1) provide indemnity bonds;

(2) pledge securities; or

(3) meet any other requirements. (Acts 46th Leg., R.S., p. 1062, S.L., Ch. 5, Sec. 15.)

Source Law

> Sec. 15. The Board of Directors of the District shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the District, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the Board of Directors of the District. The District may select one or more depositories.

Revised Law

Sec. 8515.0403. PAYMENT OF TAX OR ASSESSMENT NOT REQUIRED.

The authority is not required to pay a tax or assessment on:

(1) an authority project or any part of the project; or

(2) an authority purchase. (Acts 46th Leg., R.S., p. 1062, S.L., Ch. 5, Sec. 22 (part).)

Source Law

> Sec. 22. . . . the District shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the District, and . . . .

SUBCHAPTER E. NOTES, BONDS, AND BORROWED MONEY

Revised Law

Sec. 8515.0501. REVENUE NOTES. (a) The board, without an election, may borrow money, not to exceed $55 million in the aggregate, on the authority's negotiable notes, payable solely from the authority's revenue derived from the ownership of all or any designated part of the authority's works, plant, improvements, facilities, equipment, or water rights after deduction of the reasonable cost of maintaining and operating the facilities.

(b) The notes may be first or subordinate lien notes at the board's discretion. An obligation may not be a charge on the authority's property or on the taxes imposed by the authority. An obligation may only be a charge on the revenue pledged for the payment of the obligation. No part of the obligation may ever be paid from the taxes imposed by the authority.

(c) The notes may bear interest at a rate not to exceed 10 percent and must mature not later than 40 years after the date of their issuance. (Acts 46th Leg., R.S., p. 1062, S.L., Ch. 5, Secs. 10(c)(b), (c), (d), (e).)

Source Law

> (b) The board of directors, without the necessity of an election, may borrow money on negotiable notes of the Authority to be paid solely from the revenues of the Authority derived from the ownership of all or any designated part of the Authority's works, plant, improvements, facilities, equipment, or water rights after deduction of the reasonable cost of maintaining and operating the facilities.
>
> (c) A note issued under this section may not exceed $55 million in the aggregate.
>
> (d) The notes may mature over a term of not more

than 40 years and bear interest at a rate of not more than 10 percent.

(e) The notes may be first or subordinate lien notes within the discretion of the board of directors, but no obligation may ever be a charge on the property of the Authority or on the taxes levied or collected by the Authority, but shall be a charge on the revenues pledged for the payment of the obligation. No part of the obligation may ever be paid from the taxes levied or collected by the Authority.

Revisor's Note

(1) Section 10(c)(e), Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, provides that authority obligations may not be a charge on or paid from taxes "levied or collected" by the authority. The revised law substitutes "imposed" for the quoted language because it is the term generally used in Title 1, Tax Code, and includes the levying and collection of taxes.

(2) Section 10(c)(f), Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, provides that Section 49.153, Water Code, does not apply to the authority. Section 49.153, Water Code, does not apply to the authority because Section 49.153(d), Water Code, provides that the section does not apply to a special water authority. Because the Upper Guadalupe River Authority meets the definition of a special water authority under Section 49.001, Water Code, the provision stating that Section 49.153, Water Code, does not apply to the authority is omitted as unnecessary. The omitted law reads:

> (f) As the Authority is a special water authority, Section 49.153, Water Code, does not apply to any revenue note issued by the Authority.

Revised Law

Sec. 8515.0502. BORROWING MONEY. The authority may borrow money by any method or procedure provided by this chapter or general law for a corporate purpose or combination of corporate purposes. (Acts 46th Leg., R.S., p. 1062, S.L., Ch. 5, Sec. 10(c)(a).)

Source Law

Sec. 10(c). (a) The Upper Guadalupe River Authority may borrow money for any corporate purpose or combination of corporate purposes pursuant to the methods and procedures specifically provided by this chapter or by general law.

Revised Law

Sec. 8515.0503. AUTHORITY TO ISSUE BONDS. The authority may:

(1) issue bonds of any kind to carry out any purpose authorized by this chapter; and

(2) provide and make payment for the bonds and for necessary expenses incurred in connection with the issuance of the bonds. (Acts 46th Leg., R.S., p. 1062, S.L., Ch. 5, Sec. 17.)

Source Law

Sec. 17. In addition to the powers and purposes authorized by the General Law pertaining to water control and improvement districts created under Article 16, Section 59 of the Constitution of Texas, the District may issue any kind of bonds or refunding bonds for any or all of such purposes herein provided and provide and make payment therefor and for necessary expenses in connection therewith.

Revisor's Note

(1) Section 17, Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, provides that "[i]n addition to the powers and purposes authorized by the General Law pertaining to water control and improvement districts created under Article 16, Section 59 of the Constitution of Texas," the authority may issue bonds for certain purposes. The revised law omits the quoted language as unnecessary because an accepted general principle of statutory construction requires a statute to be given cumulative effect with other statutes unless the statute provides otherwise or unless the statutes are in conflict.

(2) Section 17, Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session,

1939, authorizes the authority to issue "any kind of bonds or refunding bonds." The revised law omits the reference to "refunding bonds" because refunding bonds are included in the meaning of "any kind of bonds."

Revised Law

Sec. 8515.0504. EXCHANGING BONDS FOR PROPERTY OR WORK. The authority may exchange bonds, including refunding bonds:

(1) for property acquired by purchase; or

(2) in payment of the contract price of work performed or materials or services provided for the authority's use and benefit. (Acts 46th Leg., R.S., p. 1062, S.L., Ch. 5, Sec. 18 (part).)

Source Law

> Sec. 18. . . . The District may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the District, but . . . .

Revisor's Note

(1) Section 18, Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, provides that authority bonds, including refunding bonds, may be sold at a price and on terms determined by the board, provided that the bonds are not sold for less than 95 percent of their face value. Section 18 also provides that where authority bonds are exchanged for property acquired by purchase, or in payment of the contract price for work done or materials or services furnished, the exchange must be based on the authority's receipt of property, materials, or services equal to not less than 95 percent of the face value of the authority bonds exchanged or used as payment. The revised law omits those provisions because they are superseded by general law. Section 1201.022, Government Code, as amended in 2001, provides that an issuer may sell

public securities "under the terms determined by the governing body of the issuer to be in the issuer's best interests." Throughout this chapter, the revised law omits law that is superseded by or duplicates law in Chapter 1201, Government Code, which applies to authority bonds under Sections 1201.002 and 1201.003 of that code. Section 1204.006(b), Government Code, enacted as Section 2, Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes), provides that an issuer may sell public securities "at any price." Section 1204.006(b), Government Code, applies to the authority under Section 1204.001, Government Code. The omitted law reads:

> Sec. 18. Any kind of bonds or refunding bonds may be sold at a price and under terms determined by the Board of Directors of the District, and . . . none of said bonds or refunding bonds shall be sold for less than ninety-five per cent of their face value. [The District may exchange bonds or refunding bonds . . . but] such exchange of bonds or refunding bonds for property or facilities acquired by purchase or in payment of the contract price for work done or materials furnished or services furnished shall not be on a basis of less than ninety-five per cent of the face value of the bonds or refunding bonds so exchanged or used for payment as herein specified.

(2) Section 18, Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, provides that authority bonds may be sold at a private or public sale. The revised law omits that provision because it duplicates Section 1201.022(a)(3)(A), Government Code. The omitted law reads:

> Sec. 18. [Any kind of bonds or refunding bonds] . . . may be sold at a private or public sale, but . . . .

Revised Law

Sec. 8515.0505. BOND ELECTION; NOTICE. (a) Except as

provided by Subsection (d), the authority may not issue bonds unless a majority of voters voting at an election held in the authority approve the issuance of the bonds.

(b) Before issuing bonds, the board must order an election and provide notice in accordance with this section.

(c) Notice of the election must be given by:

(1) posting a copy of the notice in at least three public places in the authority at least 14 days before the election date; and

(2) publishing a copy of the notice in a newspaper of general circulation in the authority at least once a week for two consecutive weeks, the first of which must be published at least 14 days before the election date.

(d) An election to authorize the issuance of bonds is not required if the bonds are payable from the revenue of an authority system or facility and the board determines that:

(1) the proceeds of the bonds will provide less than $2 million for the purpose of acquiring land or acquiring or constructing the facility, not including the cost of issuing the bonds, interest during construction, and any initial deposit from the proceeds to a reserve fund; and

(2) the bond proceeds will be used:

(A) to acquire land or an interest in land and to construct or acquire a new facility in the nature of a new project or undertaking for the authority, provided that only one series of bonds may be issued to provide for a new project or undertaking for the authority unless additional bonds are approved by a majority of voters voting at an election;

(B) to provide money for repairs, expansion, and improvement of existing authority facilities; or

(C) to provide for the completion of the construction of a project for which the authority has previously issued bonds approved at an election. (Acts 46th Leg., R.S., p. 1062, S.L., Ch. 5, Secs. 10(b)(a) (part), (b), (c) (part).)

Source Law

(a) . . . [before bonds . . . may be issued] . . . the election must be called and held and notice must be given as required by this section.

(b) An election to authorize the issuance of bonds may not be required if the bonds to be issued are payable from revenues of a system or facilities of the district and the board of directors finds and determines that the proceeds of the bonds proposed to be issued will provide less than $2 million for the purpose of acquiring land or acquiring or constructing the facilities excluding cost of issuance, interest during construction and any initial deposit from those proceeds to a reserve fund, and the proceeds of the bonds will be used:

(1) to acquire land or an interest in land and to construct or acquire new facilities in the nature of a new project or undertaking for the district, subject to the limitation that with respect to a new project or undertaking for the district, only one series of bonds may be issued to provide for the project unless additional bonds are approved at an election by a majority of the participating qualified voters;

(2) to provide funds for repairs, expansion, and improvement of the existing facilities of the district; or

(3) to provide for the completion of construction of a project for which the district has previously issued bonds approved at an election.

(c) Except as provided in Subsection (b) of this section, bonds may not be issued by the district unless an election is held in the district to approve issuance of the bonds and the issuance of the bonds is approved by a majority of the qualified voters voting at the election. . . . Notice of the election must be given by posting a copy of the notice of election in at least three public places within the district at least 14 days before the date of the election and the notice must be published at least once a week for two consecutive weeks, the date of the first publication to be at least 14 days before the election, in a newspaper with general circulation in the district.

Revisor's Note

(1) Section 10(b)(a), Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, provides that an election must be ordered to approve a bond proposition if the Texas Constitution or the act requires the approval of the proposition at an election. The revised law omits that provision because the applicable requirements of those laws would apply to the approval of a bond proposition on their own terms. The omitted law reads:

Sec. 10(b). (a) If the Texas Constitution or this Act requires a bond

> proposition to be approved by a majority of the qualified voters voting at an election called for that purpose before bonds or other obligations may be issued or taxes levied, ...

(2) Section 10(b)(a), Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, provides that an election must be "called and held" to approve a bond proposition. The revised law substitutes "order" for the quoted language because "order" is the term used in Chapter 3, Election Code.

(3) Sections 10(b)(b) and (c), Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, refer to a majority vote of the "qualified" voters voting in a bond election. The revised law omits "qualified" as unnecessary in this context because Chapter 11, Election Code, governs eligibility to vote in an election in this state and allows only "qualified" voters to vote in an election.

(4) Section 10(b)(b), Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, refers to "funds." The revised law substitutes "money" for "funds" because, in context, the terms have the same meaning and "money" is more commonly used.

(5) Section 10(b)(c), Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, provides that an election order must be issued not less than 15 or more than 90 days before the election date. The revised law omits that provision because it is expressly superseded by Section 3.005, Election Code, which requires an election order issued by an authority of a political subdivision to be issued not later than the 62nd or 78th day before election day, depending on when the election is held. The

omitted law reads:

> (c) . . . The board must issue the order calling the election not less than 15 nor more than 90 days before the date the election is to be held. . . .

Revised Law

Sec. 8515.0506. FAILED BOND ELECTION. (a) A general law, including Sections 51.781 through 51.791, Water Code, that provides for calling a hearing on the dissolution of a water control and improvement district after a failed district bond election does not apply to the authority.

(b) After the expiration of 30 days from the date of a failed bond election, the board may call a subsequent bond election.

(c) The authority continues to exist and have the authority's full power to function and operate regardless of the outcome of a bond election. (Acts 46th Leg., R.S., p. 1062, S.L., Ch. 5, Sec. 19.)

Source Law

> Sec. 19. The provisions of Section 77b, Chapter 25, General Laws, Acts of the 39th Legislature, Regular Session, 1925, as added (Article 7880-77b, Vernon's Texas Civil Statutes), or any other General Law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to the District, and this District shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of thirty days from the date of the bond election which failed.

Revisor's Note

Section 19, Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, provides that "[t]he provisions of Section 77b, Chapter 25, General Laws, Acts of the 39th Legislature, Regular Session, 1925, as added (Article 7880-77b, Vernon's Texas Civil Statutes)," do not apply to the authority. Article 7880-77b was codified by Chapter 58, Acts of the 62nd Legislature, Regular Session, 1971, as Sections 51.781 through 51.792,

Water Code, which address the dissolution of a district before the issuance of bonds. The revised law does not refer to Section 51.792, Water Code, because that section was repealed by Section 85(6), Chapter 1248, Acts of the 71st Legislature, Regular Session, 1989. The revised law is drafted accordingly.

Revised Law

Sec. 8515.0507. BONDS EXEMPT FROM TAXATION. Bonds issued under this chapter, the transfer of the bonds, and income from the bonds, including profits made on the sale of the bonds, are exempt from taxation in this state. (Acts 46th Leg., R.S., p. 1062, S.L., Ch. 5, Sec. 22 (part).)

Source Law

> Sec. 22. . . . the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof; shall at all times be free from taxation within this State.

Revisor's Note
(End of Subchapter)

(1) Section 10, Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, provides that, before issuing any construction bonds, the authority shall submit plans to the Texas Water Commission for approval in accordance with Section 139, Chapter 25, General Laws, Acts of the 39th Legislature, Regular Session, 1925, as amended (Article 7880-139, Vernon's Texas Civil Statutes), and that the authority's project is subject to inspection during construction as provided by that article. Article 7880-139 was codified by Chapter 58, Acts of the 62nd Legislature, Regular Session, 1971, as Sections 51.421 and 51.422, Water Code. Chapter 715, Acts of the 74th Legislature, Regular Session, 1995, repealed Sections 51.421 and 51.422, Water Code, and enacted Sections 49.181 and 49.182, Water Code, to govern the authority of the Texas Commission on

Environmental Quality over the issuance of authority bonds and supervision by the commission of projects and improvements, respectively. The revised law therefore omits Section 10 because Sections 49.181 and 49.182, Water Code, apply to the authority on their own terms. The omitted law reads:

> Sec. 10. Before issuing any construction bonds, the District shall submit plans and specifications therefor to the Texas Water Commission for approval in the manner required by Section 139, Chapter 25, General Laws, Acts of the 39th Legislature, Regular Session, 1925, as amended (Article 7880-139, Vernon's Texas Civil Statutes); and District's project and improvements during the course of construction shall be subject to inspection in the manner provided by Section 139, Chapter 25, General Laws, Acts of the 39th Legislature, Regular Session, 1925, as amended (Article 7880-139, Vernon's Texas Civil Statutes).

(2) Section 11, Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, provides that after approval and registration authority bonds are negotiable, legal, valid, and binding obligations and incontestable for any reason. The revised law omits the reference to the bonds being negotiable because Section 1201.041, Government Code, provides that a public security is a negotiable instrument. The revised law omits the remainder of the provision because it duplicates, in substance, Section 1202.006, Government Code, which provides that after approval and registration, bonds are incontestable and binding obligations. Section 1202.006, Government Code, applies to authority bonds under Sections 1202.001 and 1202.003(c) of that code. The omitted law reads:

> Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the District, such bonds or refunding bonds shall be

> negotiable, legal, valid and binding obligations of the District and shall be incontestable for any cause.

(3) Section 23, Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, lists the entities for which authority bonds are legal investments and provides that authority bonds may secure deposits of public funds of political subdivisions of this state. The revised law omits the provision relating to the eligibility of authority bonds to be considered as investments for various entities because it duplicates, in substance, Section 49.186(a), Water Code, which provides that bonds, notes, and other authority obligations are legal and authorized investments for certain investors. While Section 23 lists "guardians" and Section 49.186(a), Water Code, does not, Section 49.186(a) includes "fiduciaries," and a guardian is a fiduciary. The revised law omits the provision relating to securing deposits of funds of political subdivisions because it is impliedly repealed by Chapter 2257, Government Code (enacted in 1989 as Article 2529d, Vernon's Texas Civil Statutes), which governs eligible collateral for deposits of funds of certain public agencies, including political subdivisions, and permits those deposits to be secured by obligations issued by conservation and reclamation districts. The omitted law reads:

> Sec. 23. All bonds and refunding bonds of the District shall be and are hereby declared to be legal, eligible and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political

corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all unmatured coupons appurtenant thereto.

Revisor's Note
(End of Chapter)

(1) Section 6, Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, provides that it is not necessary for the board of directors to hold an election to confirm the authority's creation. The revised law omits that provision as executed. The omitted law reads:

> Sec. 6. It shall not be necessary for the Board of Directors to call or hold a confirmation election for the confirmation of the District.

(2) Section 14, Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, Section 2, Chapter 1059, Acts of the 68th Legislature, Regular Session, 1983, Section 2, Chapter 830, Acts of the 75th Legislature, Regular Session, 1997, Section 3, Chapter 1544, Acts of the 76th Legislature, Regular Session, 1999, and Section 8, Chapter 180, Acts of the 88th Legislature, Regular Session, 2023, contain legislative findings relating to the performance of certain procedural requirements for legislation affecting the authority under the constitution and other laws and rules, including proper legal notice and the filing of recommendations. The revised law omits those provisions as executed. The omitted law reads:

> [Acts 46th Leg., R.S., Ch. 5]
> Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in Kerr County, Texas; that a copy of such notice and a copy of this Act

have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Commission, and said Texas Water Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within thirty (30) days from the date such notice and Act were received by the Texas Water Commission; and that all the requirements and provisions of Article 16, Section 59(d) of the Constitution of the State of Texas have been fulfilled and accomplished as therein provided.

[Acts 68th Leg., R.S., Ch. 1059]

Sec. 2. Proof of publication of the constitutional notice required in the enactment of this Act under the provisions of Article XVI, Section 59(d), of the Texas Constitution has been made in the manner provided therein and a copy of the notice and bill as originally introduced have been delivered to the governor of the State of Texas as required in such constitutional provision, and that notice and delivery are found and declared to be proper and sufficient to satisfy those requirements.

[Acts 75th Leg., R.S., Ch. 830]

Sec. 2. Proof of publication of the constitutional notice required in the enactment of this Act under the provisions of Section 59(d), Article XVI, Texas Constitution, and the statutory notice required by Chapter 313, Government Code, have been made in the manner provided therein and a copy of the notice and bill as originally introduced have been delivered to the governor of the State of Texas, as required in such constitutional provision, and to all other persons, agencies, officials, or entities required to be furnished by the constitution and other laws of the state, and that notice and delivery are found and declared to be proper and sufficient to satisfy those requirements. The Texas Natural Resource Conservation Commission has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time. All other procedural requirements for the notice, introduction, and passage of this Act have been fulfilled and accomplished.

[Acts 76th Leg., R.S., Ch. 1544]

Sec. 3. (a) The proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and other laws of this state, including the governor, who has submitted

the notice and Act to the Texas Natural Resource Conservation Commission.

(b) The Texas Natural Resource Conservation Commission has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(c) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

[Acts 88th Leg., R.S., Ch. 180]

Sec. 8. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

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

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

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

(3) Sections 1 and 2, Chapter 193, Acts of the 59th Legislature, Regular Session, 1965, validate certain actions of the authority relating to the ordering and canvassing of an election to authorize the imposition of an ad valorem tax. The revised law omits that provision because it served its purpose on the day it took effect and is executed law. Section 311.031(a)(2), Government Code (Code Construction Act), provides that the repeal of a statute does not affect any validation previously made under the statute. The omitted law reads:

Sec. 1. All acts performed and resolutions adopted by the Upper Guadalupe River Authority in ordering, calling,

holding, and canvassing an election for the purpose of authorizing the levy of an ad valorem tax of not more than five cents on each One Hundred Dollar valuation of property in Kerr County, are validated as if the acts and resolutions had been legally performed and adopted in the first instance.

Sec. 2. The election ordered by the Upper Guadalupe River Authority and held in Kerr County on the 18th day of July, 1964, for the purpose of authorizing the levy of an ad valorem tax of not more than five cents on each One Hundred Dollar valuation of property in Kerr County, and which election resulted in a favorable vote for the authorization of the levy of the tax, is validated as if the election had been legally ordered and held in the first instance.

(4) Section 2, Chapter 632, Acts of the 59th Legislature, Regular Session, 1965, provides that the act is severable. The revised law omits that provision because the same result is produced by application of Section 311.032, Government Code (Code Construction Act), which provides that a provision of a statute is severable from each other provision of the statute that can be given effect. The omitted law reads:

Sec. 2. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision.

(5) Section 6, Article IV, Chapter 484, Acts of the 68th Legislature, Regular Session, 1983, contains a transition procedure regarding the terms of certain directors. The revised law omits that provision as executed. The omitted law reads:

Sec. 6. (a) A person appointed to the board of directors of the Upper Guadalupe River Authority who held office immediately preceding the effective date of this Act and who was eligible to be a member of the board under the law as it existed at the time of his appointment is entitled to serve the remainder of the term for which he

was appointed.

(b) The term of office succeeding a board member's term that expires on November 1, 1984, expires on February 1, 1991. The term of office succeeding a board member's term that expires on November 1, 1986, expires on February 1, 1993. The term of office succeeding a board member's term that expires on November 1, 1988, expires on February 1, 1995.

(6) Section 2, Chapter 1544, Acts of the 76th Legislature, Regular Session, 1999, provides that it is the intent of the legislature to provide a mechanism for the authority to use revenue from sources other than ad valorem taxes to finance certain water and wastewater services in Kerr County. The revised law omits that provision as unnecessary because it is implied that a statute expresses the intent of the legislature. The omitted law reads:

> Sec. 2. (a) It is the intent of the legislature to provide a mechanism for the Upper Guadalupe River Authority to use revenues from the provision of wholesale water and wastewater services instead of ad valorem taxation in Kerr County to finance the construction and simultaneous operation of regional wholesale water and wastewater services in Kerr County. The mechanism allows the anticipated growth in Kerr County to pay for itself and ensures the continued prudent fiscal management of the Upper Guadalupe River Authority.
>
> (b) The legislature anticipates that this Act will:
>
> (1) produce a revenue stream for the Upper Guadalupe River Authority sufficient to finance other operations of the authority, including water quality monitoring programs, maintenance of the county's on-site sewage facility, flood programs, and programs of the Headwaters Underground Water Conservation District that are administratively supported by the authority; and
>
> (2) allow the Upper Guadalupe River Authority to terminate the assessment and collection of ad valorem taxes in Kerr County on and after December 31, 2009, without sacrificing any of the authority's essential water quality programs or services in Kerr County.

(7) Section 6, Chapter 180, Acts of the 88th Legislature, Regular Session, 2023, provides for the terms of the directors serving on the effective date of

that Act. The revised law omits that provision as executed. The omitted law reads:

> Sec. 6. At the first meeting of the board of the Upper Guadalupe River Authority that follows the effective date of this Act, the six directors of the Upper Guadalupe River Authority whose terms do not expire on February 1, 2025, shall draw lots to determine which director will serve a term that expires on February 1, 2025, and which five directors will serve terms that expire on February 1, 2027. The three directors with terms expiring on February 1, 2025, will serve terms that expire on that date.

(8) Section 7, Chapter 180, Acts of the 88th Legislature, Regular Session, 2023, contains a transition provision authorizing a person to perform certain acts as a director notwithstanding Section 9B, Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, as added by Chapter 180 and revised as Section 8515.0211 of this chapter. The revised law omits that provision as executed. The omitted law reads:

> Sec. 7. Notwithstanding Section 9B, Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, as added by this Act, a person serving on the board of directors of the Upper Guadalupe River Authority may vote, deliberate, and be counted as a director in attendance at a meeting of the board until December 1, 2023.

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CHAPTER 9092. FRANKLIN COUNTY WATER DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 9092.0101. DEFINITIONS. In this chapter:

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

(2) "Director" means a board member.

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

Source Law

Sec. 1. . . . [district] to be known as

"Franklin County Water District" (hereinafter referred to as the "District"), ...

Revisor's Note

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

Revised Law

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

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

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

Source Law

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

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

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

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

Revisor's Note

(1) Section 1, Chapter 719, Acts of the 59th Legislature, Regular Session, 1965, provides that "in addition to all other districts into which the State has been divided heretofore," the district is "hereby created." The revised law omits the reference to the district's creation "in addition to all other districts into which the State has been divided heretofore" because the absence of the language does not imply that the legislature could create a district outside this state or that the district is not in

addition to other districts created in this state. The revised law omits the reference to the district being "hereby created" as executed.

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

Revised Law

Sec. 9092.0103. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The district is:

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

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

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

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

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

Source Law

> Sec. 2. It being hereby found and determined that all of the land included within the boundaries of the District will be benefited and that the District is created to serve a public use and benefit, ...
>
> Sec. 14. The accomplishment of the purposes stated in this Act being for the benefit of the people of this State and for the improvement of their properties and the industries, the District in carrying out the purposes of this Act will be performing an essential public function under the Constitution and . . . .
>
> Sec. 17. [The Legislature hereby declares that the enactment hereof is in fulfillment of a duty

conferred upon it by Section 59 of Article XVI of the Constitution of the State of Texas wherein it is required to pass such laws] as may be appropriate in the preservation and conservation of the natural resources of the State; that the District herein created is essential to the accomplishment of such purposes and that this Act therefore operates on a subject in which the State and the public at large are interested. . . .

Revisor's Note

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

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

Revised Law

Sec. 9092.0104. DISTRICT TERRITORY. The district's boundaries are coextensive with the boundaries of Franklin County unless the district's territory has been modified under:

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

(2) other law. (Acts 59th Leg., R.S., Ch. 719, Sec. 1 (part); New.)

Source Law

> Sec. 1. . . . The area of the District shall consist of all of the County of Franklin, State of Texas, and the boundaries of said District shall be identical with the boundaries of said County.

Revisor's Note

The revised law includes language describing the territory of the district as coextensive with the boundaries of Franklin County. Because the district's boundaries are subject to change, that description may not be accurate on the effective date of the revision or at the time of a later reading. For the reader's convenience, the revised law includes a reference to

the authority to change the district's territory under Subchapter J, Chapter 49, Water Code, applicable to the district under Sections 49.001 and 49.002 of that chapter. The revised law also includes a reference to the general authority of the legislature to enact other laws under which the district's territory may change.

Revised Law

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

Source Law

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

Revisor's Note

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

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

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

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

Revised Law

Sec. 9092.0106. LIBERAL CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed to effectuate the chapter's purposes. (Acts 59th Leg., R.S., Ch. 719, Sec. 17 (part).)

Source Law

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

SUBCHAPTER B. BOARD OF DIRECTORS; ADMINISTRATIVE PROVISIONS

Revised Law

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

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

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

Source Law

> Sec. 3. (a) All powers of the District shall be exercised by a Board of five (5) Directors. . . .
> (b) . . . Succeeding Directors shall be elected or . . . as hereinafter provided.
> (c) . . . One director represents the District as a whole and is elected at-large. . . . One director

represents each of the county commissioners precincts in Franklin County. The director for a precinct is elected by qualified voters residing in the precinct. . . . Only qualified voters residing in the District shall be entitled to vote at said election. . . .

Revisor's Note

(1) Section 3(a), Chapter 719, Acts of the 59th Legislature, Regular Session, 1965, provides that "[a]ll powers of the District shall be exercised by" the board. The revised law omits the quoted language because it duplicates, in substance, parts of Sections 49.051 and 49.057, Water Code, which provide that the district is governed by the board and that the board is responsible for the district's management. Throughout this chapter, the revised law omits law that is superseded by or duplicates law in Chapter 49, Water Code, which was enacted by Chapter 715, Acts of the 74th Legislature, Regular Session, 1995, and applies to the district under Sections 49.001 and 49.002 of that code.

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

Revised Law

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

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

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

(b) A director must:

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

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

Source Law

> (a) . . . No person shall be a Director unless he is at least twenty-one years of age, resides in and owns land in the territorial limits of the District. . . .
>
> (c) . . . A candidate for the at-large directorship must be a qualified voter who resides in the District. . . . A candidate for a precinct's directorship must be a qualified voter who resides in the precinct. . . .

Revisor's Note

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

Revised Law

Sec. 9092.0203. DIRECTORS' ELECTION. (a) A directors'

election shall be held on the first Saturday in May of each odd-numbered year to elect the appropriate number of directors.

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

(c) Notwithstanding Chapter 32, Election Code:

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

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

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

Source Law

> (c) . . . A directors' election shall be held on the first Saturday in May of each odd-numbered year to elect the appropriate number of directors. Except as provided by this Act, a directors' election is held as provided by Chapter 49, Water Code, and the Election Code. . . . The election order shall state the time, places, and purpose of the election. The Board of Directors shall appoint presiding judges as necessary. Each presiding judge shall appoint one assistant judge and at least two clerks to assist in holding such election. . . . [Returns of the election shall be made to and canvassed by the Board of Directors of said District,] which shall enter its order declaring the results of the election.

Revisor's Note

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

The revised law omits the reference to Chapter 49, Water Code, because Chapter 49 applies to the district under Sections 49.001 and 49.002 of that code. The revised law omits the reference to the Election Code because that code applies to the district under Section 1.002 of that code and Section

49.101, Water Code. The revised law omits the phrase "[e]xcept as provided by this Act" as unnecessary for each provision of Chapter 719 that relates to a directors' election, except the provision pertaining to the appointment of election judges and clerks.

Section 1.002(b), Election Code, enacted in 1985, provides that the Election Code "supersedes a conflicting statute outside this code unless this code or the outside statute expressly provides otherwise." The express exception provision of Section 3(c), Chapter 719, was enacted in 1997 by Chapter 3, Acts of the 75th Legislature, Regular Session, 1997. Although this express exception was enacted after the 1985 enactment of the Election Code, it is not necessary for the revised law to maintain this express exception for the majority of Chapter 719. Almost every provision of Chapter 719 that relates to a directors' election is expressly authorized by a provision of the Election Code (such as Section 3.002, Election Code, which provides that a law outside Chapter 3, Election Code, pertaining to election orders supersedes that chapter in the case of a conflict), is superseded by a provision of the Election Code enacted after 1997, duplicates a provision of the Election Code, or does not conflict with the Election Code. See Sections 9092.0201 and 9092.0205 of this chapter and Revisor's Note (5) at the end of this subchapter.

The express exception provision in Section 3(c) from 1997 does affect the provision of Section 3(c) that establishes requirements for the appointment of election judges and clerks. Chapter 32, Election Code, would supersede Section 3(c) without the 1997 exception provision. To preserve the effect of the 1997 exception provision, the revised law substitutes

for that provision a statement that the provision of Section 3(c) pertaining to the appointment of election judges and clerks is not superseded by Chapter 32, Election Code.

(2) Section 3(c), Chapter 719, Acts of the 59th Legislature, Regular Session, 1965, provides that a directors' election must be conducted in accordance with Chapter 49, Water Code, and the Election Code, except that notice of a directors' election must be published in accordance with the general laws applicable to water control and improvement districts. The revised law omits the reference to the general laws applicable to water control and improvement districts as unnecessary because the parts of those general laws that relate to notice of a directors' election are in Chapter 49, Water Code, and the Election Code, which apply to the district on their own terms.

At the time Section 3(c) was enacted, Section 28, Chapter 25, General Laws, Acts of the 39th Legislature, Regular Session, 1925, provided procedures for giving notice of a directors' election for a water control and improvement district. Section 28 was codified as Section 51.222, Water Code (applicable to water control and improvement districts), in Chapter 58, Acts of the 62nd Legislature, Regular Session, 1971. Chapter 715, Acts of the 74th Legislature, Regular Session, 1995, repealed Section 51.222, Water Code, and enacted Section 49.102(b), Water Code, which provides that notice of a directors' election must state the day and place or places for holding the election, the propositions to be voted on, and, if applicable, the number of directors to be voted on. Section 49.102(b), Water Code, applies to the district on its own terms.

Furthermore, Section 4.004, Election Code, applicable to the district under Section 1.002, Election Code, and Section 49.101, Water Code, provides additional requirements for the content of the notice of a directors' election. The omitted law reads:

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

Revised Law

Sec. 9092.0204. VACANCIES. If a vacancy occurs in the membership of the board, the remaining directors shall appoint a person to fill the vacancy until the next directors' election. If the vacant position is not regularly scheduled to be filled at that election, the director elected at that election to fill the vacancy shall serve only for the unexpired term. (Acts 59th Leg., R.S., Ch. 719, Secs. 3(b) (part), (e).)

Source Law

> (b) . . . [Succeeding Directors shall be elected or] appointed [as hereinafter provided].
>
> (e) If a vacancy occurs in the membership of the Board, the remaining members of the Board shall appoint a person to fill the vacancy until the next election of Directors for the District. If the vacant position is not regularly scheduled to be filled at that election, the person elected at that election to fill the vacancy shall serve only for the unexpired term.

Revised Law

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

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

Source Law

> (d) Any candidate for Director desiring to have

his name printed on the ballot may do so by a petition so requesting signed by not less than ten (10) residents of the District who are qualified to vote at the election. Such petition shall be presented to the Secretary of the Board of Directors . . . .

Revisor's Note

Section 3(d), Chapter 719, Acts of the 59th Legislature, Regular Session, 1965, provides that a petition to be on the ballot as a candidate for supervisor must be presented to the secretary of the board not less than 35 days before the election. The revised law omits that provision as superseded by Section 144.005(c), Election Code, which was enacted in 2003. Section 144.005 provides the deadlines for filing an application for candidacy for the governing body of a political subdivision and requires political subdivisions to comply with those deadlines regardless of laws outside the Election Code. Under Section 141.032, Election Code, a petition is considered part of the application for filing for candidacy. The omitted law reads:

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

Revised Law

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

Source Law

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

Revised Law

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

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

Source Law

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

Revisor's Note

Section 3(g), Chapter 719, Acts of the 59th Legislature, Regular Session, 1965, establishes the duties of the board president. The revised law omits that provision because it duplicates, in substance, Section 49.054(c), Water Code, which provides that the president is the district's chief executive officer and presides at all board meetings. The omitted law reads:

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

Revised Law

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

Source Law

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

Revised Law

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

Source Law

> (g) . . . The Vice President shall perform all duties and exercise all power conferred by this Act upon the President when the President is absent or

fails to or declines to act. . . .

Revised Law

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

Source Law

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

Revisor's Note

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

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

Revised Law

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

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

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

Source Law

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

Revisor's Note

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

Revised Law

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

Source Law

(h) [The Directors shall carefully keep and preserve a true and full account of all their meetings and proceedings, and preserve their minutes, contracts, records, notices, . . . and records of all kinds.] The same shall be . . . subject to public inspection. . . .

Revisor's Note

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

In addition, Section 3(h) provides that the "accounts" and "receipts" of the district are subject to public inspection. Because the accounts and receipts are fiscal records for purposes of Section 49.196(b), Water Code, the revised law omits that

provision as superseded by Sections 49.191(b) and 49.196(b) of that code, which provide that a district's fiscal records shall be available for public inspection during regular business hours. The omitted law reads:

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

Revised Law

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

Source Law

> (h) . . . A regular office shall be established and maintained within the District for the conduct of its business. . . .

Revised Law

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

Source Law

> Sec. 4. . . . Without limiting the generality of the foregoing, the District shall and is hereby empowered to exercise the following powers, privileges and functions:
>
> . . .
>
> (5) . . . to employ a general manager, attorneys, accountants, engineers, financial experts, or other technical or nontechnical employees or assistants; further to fix the amount and manner of their compensation and . . . .

Revisor's Note

(1) Section 4, Chapter 719, Acts of the 59th Legislature, Regular Session, 1965, states that "[w]ithout limiting the generality of the foregoing," the district has certain powers, privileges, and

functions. Throughout this chapter, the revised law omits the quoted or similar language because it is an accepted general principle of statutory construction that a grant of a power does not act as a limitation. Additionally, Section 311.021(2), Government Code (Code Construction Act), provides that it is presumed that, in enacting a statute, the entire statute is intended to be effective.

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

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

Revised Law

Sec. 9092.0215. EXPENDITURES. The district may provide for the payment of expenditures considered essential to the proper operation and maintenance of the district and the district's affairs. (Acts 59th Leg., R.S., Ch. 719, Sec. 4(5) (part).)

Source Law

> Sec. 4. . . . the District shall and is hereby empowered to exercise the following powers, privileges and functions:
>
> . . .
>
> (5) . . . to provide for the payment of all expenditures deemed essential to the proper operation and maintenance of the District and its affairs.

Revisor's Note
(End of Subchapter)

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

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

(2) Section 3(a), Chapter 719, Acts of the 59th Legislature, Regular Session, 1965, requires each director to take the constitutional oath of office. The revised law omits that provision because it duplicates, in substance, Section 1, Article XVI, Texas Constitution, which requires all officers to take the oath (or affirmation) before assuming office. The omitted law reads:

> (a) . . . Said Directors shall subscribe to the Constitutional Oath of office and . . . .

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

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

W. C. Newsome
Horris Morris
A. J. Laws
D. O. Aldridge
Landon Ramsay

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

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

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

(5) Section 3(c), Chapter 719, Acts of the 59th Legislature, Regular Session, 1965, provides that the board shall receive and canvass election returns. The revised law omits that requirement because it duplicates, in substance, Section 67.002, Election Code, which requires the governing body of a political subdivision that orders an election to canvass the returns. Section 67.002, Election Code, applies to district elections under Section 67.001 of that code. The omitted law reads:

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

(6) Section 3(f), Chapter 719, Acts of the 59th Legislature, Regular Session, 1965, provides that a director is entitled to a fee of $50 for each day the director spends performing the director's duties but may not receive more than $200 for any calendar month. The revised law omits that provision for the following reasons. Section 49.060, Water Code, also provides for a director's fees of office, computed on a rate per day of certain service. Section 49.060(a), Water Code, requires the board to adopt a resolution setting

the fees of office in accordance with the requirements of Section 49.060. Sections 49.060(a-1) and (a-2), Water Code, require the board by resolution to set a limit on the fees of office that a director may receive in a year and cap the limit at a certain amount. Section 49.060(e), Water Code, provides that, in all areas of conflict, Section 49.060 takes precedence over all prior statutory enactments. The omitted law reads:

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

(7) Section 3(f), Chapter 719, Acts of the 59th Legislature, Regular Session, 1965, provides for reimbursement of a director's actual expenses incurred when conducting district business if approved by the board. The revised law omits that provision because it is superseded by Sections 49.060(b) and (c), Water Code, which authorize reimbursement of a director's expenses if certain conditions are met. Section 49.060(e), Water Code, provides that, in all areas of conflict, Section 49.060 takes precedence over all prior statutory enactments. The omitted law reads:

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

(8) Section 3, Chapter 412, Acts of the 69th Legislature, Regular Session, 1985, and Section 2, Chapter 3, Acts of the 75th Legislature, Regular Session, 1997, provide the manner in which certain directors' elections will be held under those acts and describe those directors' terms of office. Because the terms of office of those directors have expired and those directors' elections have been held, the revised

law omits the provisions as executed. The omitted law reads:

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

> [Acts 75th Leg., R.S., Ch. 3]
>
> Sec. 2. (a) The directors of the Franklin County Water District whose terms expire in 1997 shall continue in office until successor directors are elected as provided by Subsection (b) or (c) of this section and qualify for office.
>
> (b) Except as provided by Subsection (c) of this section, the election of directors of the Franklin County Water District for Franklin County commissioners precincts numbers one and two shall be held the first Saturday of May 1997.
>
> (c) If this Act takes effect after March 9, 1997, or has not received from the United States Department of Justice or the United States District Court for the District of Columbia preclearance under Section 5, Voting Rights Act of 1965 (42 U.S.C. Section 1973c), on or before that date, the election of directors of Franklin County Water District for Franklin County commissioners precincts numbers one and two shall be held on the first uniform election date provided by Section 41.001, Election Code, that falls 45 or more days after the first day on which this Act has preclearance and is given effect. If on the effective date of this Act the Franklin County Water District has called an election and the election has not yet been held, the election shall be postponed and held on the first uniform election date provided by Section 41.001, Election Code, that falls 45 or more days after the first day on which this Act has preclearance and is given effect. If the Franklin County Water District receives notice that this Act is not precleared under Section 5, Voting Rights Act of 1965 (42 U.S.C. Section 1973c), the elections shall be held in accordance with current law on the first uniform election date provided by Section 41.001, Election Code, that falls 45 or more days after the date the district receives the notice.

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

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

SUBCHAPTER C. POWERS AND DUTIES

Revised Law

Sec. 9092.0301. GENERAL POWERS. (a) The district has all the rights, powers, and privileges conferred by general law applicable to a water control and improvement district created under Section 59, Article XVI, Texas Constitution, including Chapters 49 and 51, Water Code.

(b) The district may exercise all functions and perform any act necessary or proper to carry out the purpose for which the district is created. (Acts 59th Leg., R.S., Ch. 719, Secs. 4 (part), 4(6) (part), (7); New.)

Source Law

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

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

. . .

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

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

Revisor's Note

(1) Section 4, Chapter 719, Acts of the 59th Legislature, Regular Session, 1965, provides that the district has the powers conferred by general law on a

water control and improvement district. For the reader's convenience, the revised law includes a reference to Chapter 49, Water Code, applicable to the district under Sections 49.001 and 49.002 of that chapter, and to Chapter 51, Water Code, which applies to water control and improvement districts.

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

The revised law omits "now in force and effect" as unnecessary under general principles of statutory construction. The "general laws of this state" means those laws "in force and effect" at the time the provision was adopted.

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

The revised law omits as unnecessary and potentially misleading the quoted provision about the act prevailing over conflicting general law. To the extent the provision means that the act prevails over other law in existence at the time the act became effective and with which the act conflicts, the provision merely restates general principles of statutory construction. To the extent the provision means the act prevails over future enactments of the legislature that may conflict with it, the provision

is misleading. It is a fundamental principle of statutory construction that one session of the legislature may not bind a future session of the legislature. In addition, Section 311.026, Government Code (Code Construction Act), governs the interpretation of the revised law in instances of apparent conflict with other laws.

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

Revised Law

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

(1) control, store, preserve, and distribute the district's waters and flood waters and the waters of the district's rivers and streams for all useful purposes by all practicable means, including the construction, maintenance, and operation of all appropriate improvements, plants, works, and facilities, and the acquisition of water rights and all other properties, lands, tenements, easements, and rights necessary to the purpose of the organization of the district;

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

(3) purchase or contract for the purchase of water or a water supply from any person. (Acts 59th Leg., R.S., Ch. 719, Secs. 4(1), (2), 16 (part).)

Source Law

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

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

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

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

Revisor's Note

(1) Section 4(2), Chapter 719, Acts of the 59th Legislature, Regular Session, 1965, refers to "Chapter 1, Title 128, Revised Civil Statutes of Texas, 1925, as amended." The pertinent parts of Chapter 1, Title 128, Revised Statutes, were codified as Subchapters A-D, Chapter 11, and Subchapter B, Chapter 12, Water Code, by Section 1, Chapter 58, Acts of the 62nd Legislature, Regular Session, 1971, and Section 1, Chapter 870, Acts of the 65th Legislature, Regular Session, 1977, and the revised law is drafted accordingly.

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

Revised Law

Sec. 9092.0303. CONTRACTS TO SUPPLY WATER SERVICES AND

OPERATE FACILITIES. (a) The district may contract with a municipality or others to supply water services to them.

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

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

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

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

Source Law

> Sec. 15. The District is authorized to enter into contracts with cities and others for supplying water services to them. The District may also contract with any city for the rental or leasing, or for the operation of such city's water production, water supply, water filtration, or purification and water supply facilities. Any such contract may be upon such terms, for such consideration and for such time as the parties may agree and it may provide that it shall continue in effect until bonds specified therein and any refunding bonds issued in lieu of such bonds are paid.

Revisor's Note

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

Revised Law

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

Source Law

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

Revisor's Note

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

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

Revised Law

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

Source Law

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

. . .

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

Revisor's Note

Section 4, Chapter 719, Acts of the 59th Legislature, Regular Session, 1965, provides that the district may "make or cause to be made" certain surveys and engineering investigations. The revised law

omits the quoted language as unnecessary because the grant of a power implies the authority to provide for the exercise of that power.

Revised Law

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

(b) The district may lease property or a property right for a purpose that does not interfere with the use of district property. (Acts 59th Leg., R.S., Ch. 719, Sec. 4(3).)

Source Law

> Sec. 4. . . . the District shall and is hereby empowered to exercise the following powers, privileges and functions:
>
> . . .
>
> (3) To dispose of property or rights therein when the same are no longer needed for the purposes for which the District is created or to lease same for purposes which will not interfere with the use of the property of the District.

Revised Law

Sec. 9092.0307. ACQUISITION OF PROPERTY; EMINENT DOMAIN. (a) The district, by gift, devise, purchase, lease, or condemnation, may acquire land, an easement, right-of-way, or other property in or outside the district that is incident to or necessary in carrying out a district purpose.

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

(c) The district's authority under this section to exercise the power of eminent domain expired on September 1, 2013, unless the district submitted a letter to the comptroller in accordance with Section 2206.101(b), Government Code, not later than December 31, 2012. (Acts 59th Leg., R.S., Ch. 719, Sec. 4(6) (part); New.)

Source Law

> Sec. 4. . . . the District shall and is hereby

empowered to exercise the following powers, privileges and functions:

. . .

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

Revisor's Note

(1) Section 4(6), Chapter 719, Acts of the 59th Legislature, Regular Session, 1965, authorizes the district to acquire certain property by "device." The revised law substitutes "devise" for "device" because it is clear from the context that "device" is a typographical error and that the legislature intended to refer to the acquisition of property by "devise."

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

(3) Section 4(6), Chapter 719, Acts of the 59th Legislature, Regular Session, 1965, provides that certain procedures prescribed in "Title 52 of the Revised Civil Statutes of Texas, 1925, as heretofore or hereafter amended," apply to the district. That statute was codified in 1983 as Chapter 21, Property Code. The revised law is drafted accordingly. The revised law omits the reference to "as heretofore or

hereafter amended" because under Section 311.027, Government Code (Code Construction Act), a reference to a statute applies to all reenactments, revisions, or amendments of that statute unless expressly provided otherwise.

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

Revised Law

Sec. 9092.0308. COST OF RELOCATING OR ALTERING PROPERTY. (a) If the district's exercise of the power of eminent domain, the power of relocation, or any other power granted by this chapter makes necessary taking property or relocating, raising, rerouting, changing the grade of, or altering the construction of a highway, railroad, electric transmission line, telephone or telegraph property or facility, or pipeline, the necessary action shall be accomplished at the district's expense.

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

Source Law

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

. . .

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

Revised Law

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

Source Law

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

. . .

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

Revisor's Note

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

Note (2) to Section 9092.0304.

Revised Law

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

Source Law

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

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

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

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

Revisor's Note

Section 5, Chapter 719, Acts of the 59th Legislature, Regular Session, 1965, was amended by Section 1, Chapter 59, Acts of the 72nd Legislature, Regular Session, 1991, to require the district to comply with Section 50.061, Water Code. Section 2, Chapter 59, Acts of the 72nd Legislature, Regular Session, 1991, provides that Section 50.061, Water Code, applies only to contracts awarded by the district on or after September 1, 1991.

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

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

Revised Law

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

Source Law

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

Revisor's Note

(1) Section 4, Chapter 719, Acts of the 59th Legislature, Regular Session, 1965, provides that "[i]t is further the intention of the Legislature that the District herein created" shall have certain powers. The revised law omits the quoted language as unnecessary because it is implied that a statute expresses the intent of the legislature and also because the creation of the district has already been accomplished.

(2) Section 4, Chapter 719, Acts of the 59th Legislature, Regular Session, 1965, provides that the district has the "power and authority" necessary to fully qualify for and gain certain benefits.

Throughout this chapter, the revised law omits "authority" because, in this context, "authority" is included in the meaning of "power."

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

> Sec. 4. . . . the provisions of all such laws of which the District may lawfully avail itself are hereby adopted by this reference and made applicable to the District.
>
> . . .

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Revised Law

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

Source Law

> Sec. 2. . . . the ad valorem plan of taxation shall be used by the District.

Revised Law

Sec. 9092.0402. AUTHORITY TO IMPOSE TAX; TAX ELECTION. (a) If the tax is authorized at an election under Section 49.107, Water Code, the board annually may impose an ad valorem tax to provide money:

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

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

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

(1) ordered by the board; and

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

(c) In ordering a tax election authorized by this section, the board must specify the maximum proposed tax rate. To impose a maintenance tax at a rate that exceeds the maximum rate approved by the voters, the board must submit the question of a tax rate increase to the voters in the manner provided by this section. (Acts 59th Leg., R.S., Ch. 719, Sec. 11 (part).)

Source Law

> Sec. 11. The Board of Directors may, upon a favorable majority vote of the qualified property taxpaying voters of the District, voting at an election held for the purpose within the boundaries of such District, levy, assess and collect annual taxes to provide funds necessary to construct or acquire, maintain and operate works, plants and facilities deemed essential or beneficial to the District and its purposes, and also when so authorized may levy, assess and collect annual taxes to provide funds adequate to defray the cost of the maintenance, operation and administration of the District. Elections for the levy of such taxes shall be ordered by the Board of Directors and notice thereof shall be given and same shall be held and conducted and the results thereof determined in the manner provided herein with relation to elections for the authorization of bonds. . . . In calling an election for taxes under this Section 11, the Board of Directors shall specify the maximum rate of tax which is sought to be levied and no tax in excess of that amount may be levied without submitting the question of the increased rate of taxation at an election as provided.

Revisor's Note

(1) Section 11, Chapter 719, Acts of the 59th Legislature, Regular Session, 1965, provides that the district may impose taxes if authorized by "a favorable majority vote of the qualified property taxpaying voters of the District, voting at an election held for the purpose within the boundaries of such District." The revised law substitutes a reference to Section 49.107, Water Code, parts of

which duplicate, in substance, provisions of Section 11. Section 49.107 provides that a district may impose a tax for operation and maintenance purposes if the tax is approved by a majority of the electors voting at an election held for that purpose.

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

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

(2) Section 11, Chapter 719, Acts of the 59th Legislature, Regular Session, 1965, authorizes the district to "levy, assess and collect annual taxes" to provide "funds" necessary or adequate to pay costs associated with certain district purposes, and refers to the maximum amount of a tax that may "be levied" by the district. The revised law substitutes "impose" for the references to the levy, assessment, and collection of taxes because "impose" is the term generally used in Title 1, Tax Code, and includes the levy, assessment, and collection of an ad valorem tax. The revised law specifies that the tax is an ad valorem tax because in context it is clear that the tax is a property tax, and "ad valorem" tax is the term most commonly used in Texas law to refer to a tax on property. Throughout this chapter, the revised law

substitutes "money" for "funds" because, in context, the terms have the same meaning and "money" is more commonly used.

(3) Section 11, Chapter 719, Acts of the 59th Legislature, Regular Session, 1965, provides that taxes levied by the district constitute a lien on the property against which they are levied and that a limitation does not bar the collection or enforcement of those taxes. The revised law omits the provision to the effect that taxes imposed by the district constitute a lien on the property taxed because it duplicates, in substance, Section 32.01, Tax Code, which provides that a tax lien attaches to property to secure the payment of all taxes, penalties, and interest imposed on the property. The revised law omits the provision to the effect that a limitation does not bar the enforcement or collection of those taxes because it was repealed by Section 6(b), Chapter 841, Acts of the 66th Legislature, Regular Session, 1979, which repealed all "general, local, and special laws" that conflicted with that act. The 1979 act enacted the Property Tax Code (Title 1, Tax Code), a comprehensive, substantive codification of the laws governing the administration of ad valorem taxes. Section 33.05, Tax Code, provides for a statute of limitations on suits to collect delinquent taxes. Sections 32.01 and 33.05, Tax Code, apply to the district under Section 1.02, Tax Code. The omitted law reads:

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

(4) Section 11, Chapter 719, Acts of the 59th

Legislature, Regular Session, 1965, refers to the "calling" of a tax election by the board. The revised law substitutes "ordering" for "calling" because "order" is the term used in Chapter 3, Election Code.

Revised Law

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

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

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

Source Law

> Sec. 13. The Board of Directors shall designate one or more banks within the District to serve as depository for the funds of the District. All funds of the District shall be deposited in such depository bank or banks except that sufficient funds shall be remitted to the bank or banks of payment of principal of and interest on the outstanding bonds of the District and in time that such may be received by the said bank or banks of payment on or prior to the date of the maturity of such principal and interest so to be paid. . . . Membership on the Board of Directors of an officer or director of a bank shall not disqualify such bank from being designated as depository.

Revisor's Note

Section 13, Chapter 719, Acts of the 59th Legislature, Regular Session, 1965, requires a bank to secure district money deposited at the bank in the manner provided by law for the security of county money, to the extent that the district money deposited is not insured by the Federal Deposit Insurance Corporation. The revised law omits that provision because it duplicates, in substance, Sections 2257.021 and 2257.022, Government Code, which establish the

amount and manner of security required for a deposit of public funds. Those sections apply to the security for district money under Sections 2257.002 and 2257.004, Government Code. The omitted law reads:

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

Revised Law

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

Source Law

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

Revised Law

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

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

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

(2) with the district's depository; and

(3) in the office of the auditor who performed the audit.

(c) The copies described by Subsection (b) must be open to public inspection, in accordance with Section 49.196, Water Code. (Acts 59th Leg., R.S., Ch. 719, Sec. 3(h) (part); New.)

Source Law

> (h) . . . [The Board shall cause to be made and completed annually . . . an audit] . . . The report on said audit shall be submitted at the first regular meting of the Board of Directors thereafter. One copy of said report shall be filed with the office of the District, one with the depository of the District, and one in the office of the auditor, all of which shall be open to public inspection. . . .

Revisor's Note

(1) Section 3(h), Chapter 719, Acts of the 59th Legislature, Regular Session, 1965, refers to various audit procedures, including requirements regarding filing of copies of the audit report. The revised law omits certain of those procedures for the following reasons. Chapter 49, Water Code, which was enacted by Chapter 715, Acts of the 74th Legislature, Regular Session, 1995, applies to the district under Sections 49.001 and 49.002 of that chapter. As further detailed in the following revisor's notes, procedures that are superseded by Subchapter G, Chapter 49, Water Code, have been omitted as superseded by Section 49.191(b), Water Code, and the specific provisions in Subchapter G that conflict with Chapter 719. Section 49.191(b) provides that in all areas of conflict, that subchapter takes precedence over all prior statutory enactments.

For context and the reader's convenience, the revised law adds a reference to the audit report prepared under Subchapter G, Chapter 49, Water Code, and to Section 49.194 of that code, which governs the filing of the report.

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

(2) Section 3(h), Chapter 719, Acts of the 59th Legislature, Regular Session, 1965, requires copies of the audit report filed with the district's office, the district's depository, and the auditor to be open to public inspection. The revised law adds a reference to the requirement in Section 49.196, Water Code, that district fiscal records be open to public inspection

because that section requires that the records be open to public inspection during regular business hours.

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

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

(4) Section 3(h), Chapter 719, Acts of the 59th Legislature, Regular Session, 1965, provides that the district audit shall be prepared by a public accountant or firm of public accountants. The revised law omits that provision as superseded by Section 49.191(c), Water Code, which provides that the person who performs the audit shall be a certified public accountant or public accountant holding a permit from the Texas State Board of Public Accountancy. The omitted law reads:

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

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

reads:

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

Revised Law

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

Source Law

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

SUBCHAPTER E. BORROWED MONEY; BONDS

Revised Law

Sec. 9092.0501. AUTHORITY TO BORROW MONEY AND ISSUE BONDS. The district may borrow money and issue bonds to carry out any power conferred by this chapter, including to provide money to purchase or otherwise provide works, plants, facilities, or appliances necessary to accomplish the purposes authorized by this chapter. (Acts 59th Leg., R.S., Ch. 719, Sec. 6(a) (part).)

Source Law

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

Revisor's Note

(1) Section 6(a), Chapter 719, Acts of the 59th Legislature, Regular Session, 1965, authorizes the district to issue "negotiable" bonds. The revised law omits the reference to "negotiable" bonds because Section 1201.041, Government Code, provides that a

public security is a negotiable instrument. Throughout this chapter, the revised law omits law that is superseded by or duplicates law in Chapter 1201, Government Code, which applies to district bonds under Sections 1201.002 and 1201.003 of that code.

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

> (b) Bonds may be issued in one or more than one series, and from time to time, as required for carrying out the purposes of this Act.

Revised Law

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

(1) issued in the district's name;

(2) signed by the president; and

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

Source Law

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

Revisor's Note

Section 6(a), Chapter 719, Acts of the 59th

Legislature, Regular Session, 1965, provides that district bonds must bear the district's seal and authorizes "printed or lithographed" signatures and seals. The revised law omits those provisions as unnecessary. The requirement that the bonds bear the district's seal was impliedly repealed by Section 3, Bond Procedures Act of 1981 (Article 717k-6, Vernon's Texas Civil Statutes), revised in pertinent part in 1999 as Section 1201.026(a), Government Code, which provides that bonds may be signed with or without a seal. The authorization for the use of printed or lithographed signatures duplicates, in substance, Section 1201.026(a), Government Code, which also provides that bonds and interest coupons may be signed or otherwise executed with manual or facsimile signatures. The omitted law reads:

> (a) . . . [Such bonds] . . . shall bear the seal of the District. It is provided, however, that the signatures of the President or Secretary, or of both, may be printed or lithographed on the bonds authorized by the Board of Directors and that the seal of the District may be impressed on the bonds or may be printed or lithographed thereon, if so authorized. . . .

Revised Law

Sec. 9092.0503. MATURITY. District bonds must mature not later than 40 years after the date of their issuance. (Acts 59th Leg., R.S., Ch. 719, Sec. 6(a) (part).)

Source Law

> (a) . . . The bonds shall mature serially or otherwise, in not to exceed forty (40) years and . . . .

Revisor's Note

Section 6(a), Chapter 719, Acts of the 59th Legislature, Regular Session, 1965, provides that district bonds shall mature "serially or otherwise." The revised law omits the quoted language because it is

superseded by Section 1201.021, Government Code (enacted as Section 3, Bond Procedures Act of 1981 (Article 717k-6, Vernon's Texas Civil Statutes)), which provides that the governing body of an issuer may determine the time of payment of public securities it issues, and by Section 1201.022, Government Code (enacted as Section 5(a), Bond Procedures Act of 1981 (Article 717k-6, Vernon's Texas Civil Statutes)), which provides that a public security may be issued with specified characteristics, on specified terms, or in a specified manner.

Revised Law

Sec. 9092.0504. ELECTION FOR BONDS PAYABLE FROM AD VALOREM TAXES. (a) District bonds, other than refunding bonds, payable wholly or partly from ad valorem taxes may not be issued unless authorized by an election at which a majority of the votes cast favor the bond issuance.

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

(1) the time and places at which the election will be held;

(2) the purpose for which the bonds will be issued;

(3) the maximum amount of the bonds;

(4) the maximum interest rate of the bonds;

(5) the maximum maturity of the bonds;

(6) the form of the ballot; and

(7) the presiding judge for each polling place.

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

(d) If an election to issue bonds under this section fails, the board may not order an election under this section for a period

of six months.

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

Source Law

> Sec. 9. (a) No bonds payable wholly or partially from ad valorem taxes (except refunding bonds) shall be issued unless authorized at an election at which only the qualified voters, who reside in the District and own taxable property therein and have duly rendered the same for taxation, are permitted to vote, and unless a majority of such votes cast is in favor of the issuance of the bonds. Bonds not payable wholly or partially from ad valorem taxes may be issued without an election.
>
> (b) Such bond elections may be called by the Board of Directors without a petition. The resolution calling the election shall specify the time and place or places of holding the same, the purpose for which the bonds are to be issued, the maximum amount thereof, the maximum interest rate, the maximum maturity thereof, the form of the ballot, and the presiding judge for each voting place. . . . Notice of election for the issuance of bonds shall be given by publication of a substantial copy of the resolution calling the election in a newspaper of general circulation in the District once each week for at least four (4) consecutive weeks, the first publication to appear not less than twenty-eight (28) days prior to the date assigned for the election. . . . In the event a bond issue election fails, another bond election shall not be called for a period of six (6) months.

Revisor's Note

(1) Section 9(a), Chapter 719, Acts of the 59th Legislature, Regular Session, 1965, provides that qualified voters who reside in and own property in the district are permitted to vote in elections for bonds payable from ad valorem taxes. The revised law omits that provision for the reason stated in Revisor's Note (2) to Section 9092.0201 and Revisor's Note (1) to Section 9092.0402.

(2) Section 9(b), Chapter 719, Acts of the 59th Legislature, Regular Session, 1965, refers to the "calling" of a bond election by resolution. The revised law substitutes "order" for references to the calling of a bond election for the reason stated in Revisor's Note (4) to Section 9092.0402.

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

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

> (b) . . . The presiding judge serving at each voting place shall appoint one (1) assistant judge and at least two (2) clerks to assist in holding such election. . . .

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

> (b) . . . The returns of the election shall be made to and canvassed by the Board of Directors of the District. . . .

(6) Section 9(b), Chapter 719, Acts of the 59th Legislature, Regular Session, 1965, provides that the

general laws relating to elections apply to an election under that section except as "herein otherwise provided." The revised law omits that provision because Section 1.002, Election Code, provides that the Election Code applies to all elections in this state. An exception to the application of the Election Code to a district bond election would apply by its own terms. The omitted law reads:

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

Revised Law

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

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

(1) all or part of the district's net revenue;

(2) the net revenue of one or more contracts made before or after the issuance of the bonds; or

(3) other revenue or income specified by board resolution or in the trust indenture.

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

Source Law

> (a) . . . [the District is hereby empowered to . . . issue] . . . bonds to be payable from . . . revenues or . . . of the District, as are pledged by resolution of the Board of Directors. . . .
>
> (c) The bonds may be secured by a pledge of all or part of the net revenues of the District, or by the net revenues of any one or more contracts theretofore or thereafter made or other revenues and income specified by the resolution of the Board of Directors or in the trust indenture. Any such pledge may reserve

the right, under conditions therein specified, to issue additional bonds which would be on a parity with or subordinate to the bonds then being issued. The term "net revenues" as used in this Section shall mean the gross revenues of the District after deduction of the amount necessary to pay the reasonable cost of maintaining and operating the District and its properties.

Revised Law

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

(1) ad valorem taxes of the district; or

(2) ad valorem taxes and revenue of the district. (Acts 59th Leg., R.S., Ch. 719, Sec. 6(a) (part).)

Source Law

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

Revised Law

Sec. 9092.0507. TAX AND RATE REQUIREMENTS. (a) If the district issues bonds payable wholly or partly from ad valorem taxes, the board shall impose an ad valorem tax sufficient to pay the bonds and the interest on the bonds as the bonds and interest become due. The board shall take into consideration reasonable delinquencies and collection costs in imposing the ad valorem tax. The board may adopt the tax rate for any year after considering the money reasonably to be received from the pledged revenue available for payment of principal and interest and to the extent and in the manner permitted by the resolution authorizing the issuance of the bonds.

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

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

(1) pay the expenses of operating and maintaining the

district's facilities;

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

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

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

Source Law

> (d) Where bonds are issued, payable wholly or partially from ad valorem taxes, it shall be the duty of the Board of Directors to levy, assess and cause to be collected a tax sufficient to pay the bonds and the interest thereon as such bonds and interest become due, and in levying such tax shall take into consideration reasonable delinquencies and costs of collection. In the case of bonds payable partially from ad valorem taxes, the rate of the tax for any year may be fixed after giving consideration to the money reasonably to be received from the pledged revenues available for payment of principal and interest and to the extent and in the manner permitted by the resolution authorizing the issuance of the bonds.
>
> (e) Where bonds payable wholly from revenues are issued, it shall be the duty of the Board of Directors to fix, establish and from time to time as necessary revise the rates of compensation for the sale of water and other services furnished, supplied and rendered by the District and collect same in amounts sufficient to pay the expenses of operating and maintaining the facilities of the District and to pay the bonds as they mature and the interest as it accrues, and to maintain the reserve and other funds as provided in the resolution authorizing the bonds. Where bonds payable partially from revenues are issued, it shall be the duty of the Board to fix, establish and from time to time as necessary revise the rates of compensation for the sale of water and other services furnished, supplied and rendered by the District and to collect same in amounts sufficient to assure compliance with the resolution authorizing the bonds.

Revisor's Note

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

(2) to Section 9092.0402.

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

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

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

Revised Law

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

(1) sell the property for the payment of the debt;

(2) operate the property; and

(3) take other action to further secure the bonds.

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

(1) is the absolute owner of the property, facilities, and rights purchased; and

(2) is entitled to maintain and operate the property, facilities, and rights. (Acts 59th Leg., R.S., Ch. 719, Sec. 8 (part).)

Source Law

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

Revised Law

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

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

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

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

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

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

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

Source Law

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

Revisor's Note

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

Revised Law

Sec. 9092.0510. INTERIM BONDS OR NOTES. Before issuing definitive bonds, the board may issue interim bonds or notes exchangeable for definitive bonds. (Acts 59th Leg., R.S., Ch. 719, Sec. 6(a) (part).)

Source Law

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

Revisor's Note

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

(2) Section 6(a), Chapter 719, Acts of the 59th

Legislature, Regular Session, 1965, refers to bonds or notes "eligible for exchange or substitution." The revised law substitutes "exchangeable" for the quoted language because, in context, "substitution" is included in the meaning of "exchange."

Revised Law

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

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

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

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

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

Source Law

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

Revised Law

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

(b) The receiver may:

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

(2) employ and discharge district agents and employees;

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

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

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

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

Source Law

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

Revisor's Note

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

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

Revised Law

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

(b) Refunding bonds may:

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

(2) be secured by a pledge of other or additional revenue or mortgage liens.

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

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

(e) Instead of issuing bonds to be registered on the surrender and cancellation of the bonds to be refunded, the district, in the resolution authorizing the issuance of the refunding bonds, may provide for the sale of the refunding bonds and

the deposit of the proceeds in a bank at which the bonds to be refunded were payable. In that case, the refunding bonds may be issued in an amount sufficient to pay the principal of and interest on the bonds to be refunded to their effective option date or maturity date, and the comptroller shall register the refunding bonds without the concurrent surrender and cancellation of the bonds to be refunded. (Acts 59th Leg., R.S., Ch. 719, Sec. 7.)

Source Law

> Sec. 7. The District is authorized to issue refunding bonds for the purpose of refunding any of the outstanding bonds authorized by this Act and the interest thereon. Such refunding bonds may be issued to refund more than one (1) series of outstanding bonds and combine the pledges for the outstanding bonds for the security of the refunding bonds, and may be secured by other or additional revenues and mortgage liens. The provisions of this law with reference to the issuance by the District of other bonds, their security, and their approval by the Attorney General and the remedies of the holders shall be applicable to refunding bonds. Refunding bonds shall be registered by the Comptroller of Public Accounts of the State of Texas upon surrender and cancellation of the bonds to be refunded, but in lieu thereof, the resolution authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the bank where the original bonds were payable, in which case the refunding bonds may be issued in an amount sufficient to pay the principal of and interest on the original bonds to their effective option date or maturity date; and the Comptroller shall register them without concurrent surrender and cancellation of the original bonds.

Revisor's Note

Section 7, Chapter 719, Acts of the 59th Legislature, Regular Session, 1965, refers to provisions relating to the "approval [of district bonds] by the Attorney General" and applies those provisions to refunding bonds. Section 10, Chapter 719, Acts of the 59th Legislature, Regular Session, 1965, requires the district to deliver bonds the district issues to the attorney general for examination and approval. Section 10 also requires the attorney general to approve district bonds if the bonds were authorized under law. In addition, Section 10 provides that after approval the bonds must be

registered with the comptroller and that after approval and registration the bonds are incontestable. The revised law omits the quoted language of Section 7 and the provisions of Section 10 as superseded by Chapter 1202, Government Code (enacted as Article 3, Chapter 53, Acts of the 70th Legislature, 2nd Called Session, 1987). Section 1202.003, Government Code, provides for approval of the bonds by the attorney general and requires the attorney general to submit the approved bonds to the comptroller for registration. Section 1202.005, Government Code, requires registration of the bonds by the comptroller. Section 1202.006, Government Code, provides that after approval and registration the bonds are incontestable and binding obligations. Chapter 1202, Government Code, applies to district bonds under Sections 1202.001 and 1202.003(c) of that code. The omitted law from Section 10 reads:

> Sec. 10. After any bonds (including refunding bonds) are authorized by the District, such bonds and the record relating to their issuance shall be submitted to the Attorney General for his examination as to the validity thereof. . . . If such bonds have been authorized and . . . in accordance with the Constitution and laws of the State of Texas, he shall approve the bonds and . . . the bonds shall then be registered by the Comptroller of Public Accounts. Thereafter the bonds, and . . . shall be valid and binding and shall be incontestable for any cause.

Revised Law

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

Source Law

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

Revised Law

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

Source Law

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

Revisor's Note
(End of Subchapter)

(1) Section 6(a), Chapter 719, Acts of the 59th Legislature, Regular Session, 1965, provides that district bonds may be sold at a price and under terms that the board determines to be the most advantageous reasonably obtainable. The revised law omits that provision because it is superseded by general law. Section 1201.022, Government Code, as amended by Section 1, Chapter 769, Acts of the 77th Legislature, Regular Session, 2001, provides that an issuer may sell public securities "under the terms determined by the governing body of the issuer to be in the issuer's best interests." Section 1204.006(b), Government Code, provides that an issuer may sell public securities at any price. That section reflects the amendment of Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes), now Chapter 1204, Government Code, by Section 1, Chapter 61, Acts of the 67th Legislature,

Regular Session, 1981. Section 1204.006(b) applies to district bonds under Sections 1204.001 and 1204.002 of that code. The omitted law reads:

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

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

> (a) . . . [bonds . . . may be sold . . . under terms as determined by the Board of Directors] . . . provided that the interest cost to the District, calculated by the use of standard bond interest tables, currently in use by insurance companies and investment houses, does not exceed six per cent (6%) per annum, and . . . .

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

redeemed before maturity and be payable in specified amounts and at specified times. The omitted law reads:

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

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

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

(5) Section 6(h), Chapter 719, Acts of the 59th Legislature, Regular Session, 1965, provides that the provisions of Section 139, Chapter 25, General Laws, Acts of the 39th Legislature, Regular Session, 1925, as amended, relating to Texas Water Commission approval of plans and specifications for projects to be financed by the sale of bonds apply to the sale of bonds under Chapter 719, Acts of the 59th Legislature. Section 139, Chapter 25, General Laws, Acts of the 39th Legislature, Regular Session, 1925, was codified by Chapter 58, Acts of the 62nd Legislature, Regular Session, 1971, as Sections 51.421 and 51.422, Water Code. Chapter 715, Acts of the 74th Legislature, Regular Session, 1995, repealed Sections 51.421 and 51.422, Water Code, and enacted Sections 49.181 and 49.182, Water Code, to govern the authority of the Texas Commission on Environmental Quality, the Texas Water Commission's successor agency, over the issuance of district bonds and supervision by the commission of projects and improvements, respectively. The revised

law therefore omits the provision because Sections 49.181 and 49.182, Water Code, determine their own applicability to the district. Section 49.181(h), Water Code, provides that Section 49.181 does not apply to a district if the "district's boundaries include one entire county." Section 49.181, Water Code, therefore would not apply to the district if the district's boundaries were coextensive with Franklin County. Section 49.182, Water Code, applies only to district projects and improvements required to be approved under Subchapter F, Chapter 49, of that code. The omitted law reads:

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

(6) Section 10, Chapter 719, Acts of the 59th Legislature, Regular Session, 1965, details various procedures regarding the submission of contracts the proceeds of which are pledged to the payment of bonds, together with related proceedings, to the attorney general, the attorney general's approval of the bond contracts, and the validity and incontestability of the approved bonds and bond contracts. The revised law omits the part of Section 10 regarding the submission of bond contracts and related proceedings to the attorney general and the attorney general's approval of the bond contracts as duplicative of or superseded by Section 1202.003, Government Code (enacted as Section 3.002(a), Chapter 53, Acts of the 70th Legislature, 2nd Called Session, 1987 (Article 717k-8, Vernon's Texas Civil Statutes)), which provides that the issuer of a public security shall submit to the

attorney general the public security and record of proceedings and provides for the attorney general's approval of the public security. The revised law omits the part of Section 10 regarding the validity and incontestability of bonds and bond contracts as duplicative of or superseded by Section 1202.006, Government Code (enacted as Section 3.002(d), Chapter 53, Acts of the 70th Legislature, 2nd Called Session, 1987 (Article 717k-8, Vernon's Texas Civil Statutes)), which provides that after approval and registration of bonds, the bonds and bond contracts are not contestable for any reason. The omitted law reads:

> Sec. 10. . . . Where such bonds recite that they are secured by a pledge of the proceeds of a contract theretofore made between the District and any city or other governmental agency, authority or district, a copy of such contract and the proceedings of the city or other governmental agency, authority or district authorizing such contract shall also be submitted to the Attorney General. . . . if such contracts have been made [in accordance with the Constitution and laws of the State of Texas, he shall approve] . . . such contracts and . . . . [Thereafter] . . . the contracts, if any, [shall be valid and . . . shall be incontestable for any cause.]

(7) Section 12, Chapter 719, Acts of the 59th Legislature, Regular Session, 1965, lists the entities for which district bonds are legal investments and provides that district bonds may secure deposits of public funds of the state or political subdivisions. The revised law omits the provision relating to the eligibility of district bonds to be considered as investments for various entities because it duplicates, in substance, Section 49.186(a), Water Code. The revised law omits the provision relating to the use of district bonds as security for deposits of state funds as impliedly repealed by Section 404.0221, Government Code (enacted in 1995), which lists

eligible collateral for deposits of state funds by the comptroller, and by Section 404.031, Government Code (enacted in 1985 as Section 3.001, Article 4393-1, Vernon's Texas Civil Statutes), which provides for the valuation of that collateral. As to securing deposits of other funds, the provision is impliedly repealed by Chapter 2257, Government Code (enacted in 1989 as Article 2529d, Vernon's Texas Civil Statutes), which governs eligible collateral for deposits of funds of other public agencies, including political subdivisions, and permits those deposits to be secured by obligations issued by conservation and reclamation districts. The omitted law reads:

> Sec. 12. All bonds of the District shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, and sinking funds of cities, towns and villages, counties, school districts, or other political subdivisions of the State of Texas, and for all public funds of the State of Texas or its agencies, including the State Permanent School Fund. Such bonds shall be eligible to secure deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political subdivisions or corporations of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

Revisor's Note
(End of Chapter)

(1) Section 2, Chapter 719, Acts of the 59th Legislature, Regular Session, 1965, provides that the board is not required to call a confirmation election, hold a hearing on the exclusion of land, or hold a hearing on the adoption of a plan of taxation. The revised law omits the provision as unnecessary.

The provision is a transition provision commonly

found in local laws creating water control and improvement districts. The provision would have addressed the applicability of provisions of the general law in effect at the time of the district's creation governing the creation of water control and improvement districts. A water control and improvement district created under the general law in effect at the time the district was created would have been required at the time of its creation to hold a confirmation election and hearings on the exclusion of land from the district and the adoption of a plan of taxation. However, those general laws would not have applied to the Franklin County Water District. First, the district is a legislatively created district that would not have been subject to general laws regarding the creation of a district. Second, Section 4, Chapter 719, Acts of the 59th Legislature, Regular Session, 1965, provides the district with the "rights, powers and privileges conferred by the General Laws of this State . . . applicable to water control and improvement districts" without imposing on the district the duties of a water control and improvement district.

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

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

(2) Section 18, Chapter 719, Acts of the 59th Legislature, Regular Session, 1965, provides that the act is severable. The revised law omits that provision

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

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

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

> Sec. 19. It is hereby found and determined that in conformity with Article XVI, Section 59, of the Constitution of Texas (as amended in 1964) notice of the intention to introduce this bill setting forth the general substance of this contemplated bill and law has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this bill in the Legislature in a newspaper or newspapers having general circulation in Franklin County and by delivering a copy of such notice and such bill to the Governor, who has submitted such notice and bill to the Texas Water Commission, which has filed its recommendations as to such bill with the Governor, Lieutenant Governor and Speaker of the House of Representatives within thirty (30) days from date notice was received by the Texas Water Commission. The evidence of the foregoing was exhibited in the Legislature before the passage of this Act. The time, form and manner of giving said notices and the performance of said acts as required by the Constitution are hereby found to be sufficient to comply with the Constitution and such notices and all acts in relation thereto are hereby approved and ratified.

(4) Section 1, Chapter 308, Acts of the 60th Legislature, Regular Session, 1967, provides that the

creation of the district, all official actions and proceedings of the district, and all bonds issued by the district are ratified, validated, and incontestable, that the district is found to be performing its public rights and duties, and that Chapter 308 does not validate a proceeding or action that is the subject of pending litigation and is ultimately determined to be invalid. The validation provisions are omitted from the revised law because they served their purposes on the day they took effect and are executed law. Section 311.031(a)(2), Government Code (Code Construction Act), provides that the repeal of a statute does not affect any validation previously made under the statute. Therefore, the omission of the executed validation provisions does not affect those validations.

Section 1, Chapter 308, also provides that the district, as created by Chapter 719, Acts of the 59th Legislature, Regular Session, 1965, shall continue as a conservation and reclamation district "subject only to further acts of the Legislature." If the quoted phrase is intended to protect the creation, actions, proceedings, and bonds of the district from invalidation by a court, the phrase is unnecessary because the other validation provisions of Section 1, Chapter 308, served that purpose on the date Section 1 took effect. If the quoted phrase is intended to affect the authority of a nonlegislative actor to take an action that affects the district, the phrase is misleading because such an action would necessarily need to be authorized by a legislative act. If the quoted phrase is intended to affect the authority of a future legislature over the district, the phrase is unnecessary and misleading because it is a

well-accepted principle of constitutional law that a legislature may not, through statutory law, limit or expand the authority of a future legislature. By application of that principle, a district created under an act of the legislature may be modified by a subsequent legislative act without an express statement to that effect. The omitted law reads:

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

SUBTITLE J. WATER IMPROVEMENT DISTRICTS

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CHAPTER 9305. ESCONDIDO WATERSHED DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 9305.0101. DEFINITIONS. In this chapter:

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

(2) "Director" means a board member.

(3) "District" means the Escondido Watershed District. (Acts 57th Leg., R.S., Ch. 364, Sec. 1 (part); New.)

Source Law

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

Revisor's Note

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

Revised Law

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

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

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

Source Law

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

Revisor's Note

(1) Section 1, Chapter 364, Acts of the 57th Legislature, Regular Session, 1961, provides that "in addition to all other districts into which the State has been divided heretofore," the district is "hereby created." The revised law omits the reference to the

district's creation "in addition to all other districts into which the State has been divided heretofore" because the absence of the language does not imply that the legislature could create a district outside this state or that the district is not in addition to other districts created in this state. The revised law omits the reference to the district being "hereby created" as executed.

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

Revised Law

Sec. 9305.0103. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The district is:

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

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

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

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

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

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

Source Law

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

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

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

Sec. 16. [The Legislature hereby declares that the enactment hereof is in fulfillment of a duty conferred upon it by Section 59 of Article XVI of the Constitution of Texas wherein it is required to pass such laws as may be appropriate] in the preservation and conservation of the natural resources of the State; that the District herein created is essential to the accomplishment of such purposes and that this Act therefore operates on a subject in which the State and the public at large are interested. . . .

Revisor's Note

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

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

Revised Law

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

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

(2) other law.

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

Source Law

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

Revisor's Note

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

(1) the statutory authority to change the district's territory under Subchapter J, Chapter 49, Water Code, applicable to the district under Sections 49.001 and 49.002 of that code; and

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

Revised Law

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

Source Law

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

Revisor's Note

(1) Section 17, Chapter 364, Acts of the 57th Legislature, Regular Session, 1961, provides that the act may not be construed to violate the federal or state constitution and requires that action under the act comply with the constitutions. The revised law omits as unnecessary the statement that the act may not be construed to violate the constitutions because under Section 311.021(1), Government Code (Code Construction Act), it is presumed that, in enacting a statute, compliance with the constitutions of the United States and this state is intended. The revised law omits as unnecessary the statement that actions done under the act must conform to the constitutions for the following reasons. The revised law omits the provision as it relates to the federal constitution because under the Supremacy Clause of the United States Constitution (Clause 2, Article VI), federal law takes precedence over a state statute. The revised law omits the provision as it relates to the state constitution because the state legislature cannot modify a constitutional provision by statute. The omitted law reads:

> Sec. 17. Nothing in the Act shall be construed to violate any provision of the Federal or State Constitutions and all acts done under this Act shall be done in such manner as will conform thereto whether herein expressly provided or not. . . .

(2) Section 17, Chapter 364, Acts of the 57th Legislature, Regular Session, 1961, provides that the board "shall have the power" to provide an alternative procedure by resolution. Throughout this chapter, in this and similar contexts, the revised law substitutes "may" or "has" for the quoted or similar language because the language has the same meaning and "may" or

"has" are more commonly used.

Revised Law

Sec. 9305.0106. LIBERAL CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed to effectuate the chapter's purposes. (Acts 57th Leg., R.S., Ch. 364, Sec. 16 (part).)

Source Law

> Sec. 16. . . . All the terms and provisions of the Act are to be liberally construed to effectuate the purposes herein set forth.

SUBCHAPTER B. BOARD OF DIRECTORS; ADMINISTRATIVE PROVISIONS

Revised Law

Sec. 9305.0201. COMPOSITION OF BOARD. The board consists of five elected directors. (Acts 57th Leg., R.S., Ch. 364, Sec. 5(a) (part); New.)

Source Law

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

Revisor's Note

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

(2) Section 5(a), Chapter 364, Acts of the 57th Legislature, Regular Session, 1961, provides that the board consists of five directors. The revised law adds a reference to the directors being "elected" for the reader's convenience and because it is clear from

Section 5(b), Chapter 364, Acts of the 57th Legislature, Regular Session, 1961, revised in relevant part as Section 9305.0203 of this chapter, that the directors are elected.

(3) Section 5(a), Chapter 364, Acts of the 57th Legislature, Regular Session, 1961, provides that directors serve the terms of office provided in Chapter 364 and until the director's successor is elected or appointed and qualified. Section 5(b) of that chapter establishes staggered two-year terms for directors. The revised law omits the term provisions as superseded by Section 49.103, Water Code (enacted in 1995). Section 49.103(a) provides that directors serve staggered four-year terms, and Section 49.103(b) requires director elections to be held in each even-numbered year. The revised law omits the successor qualification requirement because it duplicates Section 17, Article XVI, Texas Constitution, which provides that an officer in this state shall continue to perform the officer's duties until a successor has qualified. The omitted law reads:

> (a) . . . Each Director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. . . .
> (b) . . . Two (2) Directors shall be elected in each even numbered year and three (3) in each odd numbered year. . . .

Revised Law

Sec. 9305.0202. QUALIFICATIONS. A director must:

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

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

Source Law

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

District. . . .

Revisor's Note

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

Revised Law

Sec. 9305.0203. NOTICE OF ELECTION. Notice of a directors' election must be published once in a newspaper of general circulation in the district at least 30 days before the election date. (Acts 57th Leg., R.S., Ch. 364, Sec. 5(b) (part).)

Source Law

(b) [An election of Directors shall be held] . . . . Notice of the election shall be published in a newspaper of general circulation in said District one (1) time at least thirty (30) days before the election. . . .

Revisor's Note

(1) Section 5(b), Chapter 364, Acts of the 57th Legislature, Regular Session, 1961, provides that director elections shall be held annually "on the first Saturday in April." The revised law omits that provision as superseded by Section 49.103(b), Water Code, which requires board elections to be held on the uniform election date provided by Section 41.001,

Election Code, in May of each even-numbered year. Section 49.103(e), Water Code, provides that in all areas of conflict Section 49.103(b) take precedence over all prior statutory enactments. The omitted law reads:

> (b) An election of Directors shall be held on the first Saturday in April of each year. . . .

(2) Section 5(b), Chapter 364, Acts of the 57th Legislature, Regular Session, 1961, provides that the board shall order the election of directors. The revised law omits that provision because it duplicates, in substance, Section 3.004(a)(3), Election Code, which requires the governing body of a political subdivision that has elective offices to order the general election for those officers. Throughout this chapter, the revised law omits law that is superseded by or duplicates law in the Election Code (enacted in 1985), applicable to the district under Section 1.002 of that code. The omitted law reads:

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

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

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

(4) Section 5(b), Chapter 364, Acts of the 57th Legislature, Regular Session, 1961, provides for the appointment of a presiding judge, an assistant judge, and clerks. The revised law omits that provision as

superseded by Chapter 32, Election Code, which provides for the selection of election judges and clerks. The omitted law reads:

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

(5) Section 5(b), Chapter 364, Acts of the 57th Legislature, Regular Session, 1961, provides that only qualified electors who reside in the district are entitled to vote at a directors' election. The revised law omits that provision and similar language throughout this chapter because it duplicates, in substance, Sections 11.001(a)(1) and (2), Election Code, which provide that to be eligible to vote in an election a person must be a qualified voter as defined by Section 11.002, Election Code, and be a resident of the territory covered by the election. The revised law substitutes "voters" for "electors" because the terms have the same meaning and "voters" is more commonly used. The omitted law reads:

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

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

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

(7) Section 5(b), Chapter 364, Acts of the 57th

Legislature, Regular Session, 1961, provides that the board shall receive and canvass the election returns and enter an order declaring the results. The revised law omits that provision as superseded by Chapter 67, Election Code, which provides for the canvass of elections. The omitted law reads:

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

Revised Law

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

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

Source Law

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

Revisor's Note

Section 5(c), Chapter 364, Acts of the 57th Legislature, Regular Session, 1961, provides that a petition to be on the ballot as a candidate for director must be presented not less than 10 days before the election. The revised law omits that provision as superseded by Section 144.005, Election Code (enacted in 1985), which provides the deadlines for filing an application for candidacy for the governing body of a political subdivision. Under Section 141.032, Election Code, a petition is considered part of the application for filing for candidacy. The omitted law

reads:

> (c) . . . The petition shall be presented on such date as will allow not less than ten (10) full days between the date of presentation and the date of election.

Revised Law

Sec. 9305.0205. OFFICERS. (a) The board shall elect from the board's membership a president, a vice president, and any other officers the board determines necessary.

(b) The board shall appoint a secretary and a treasurer, who are not required to be directors. The board may combine the offices of secretary and treasurer. (Acts 57th Leg., R.S., Ch. 364, Sec. 5(f) (part).)

Source Law

> (f) The Board of Directors of the District shall elect from its number a President and a Vice President, and such other officers as in the judgment of the Board are necessary. . . . The Board shall also appoint a Secretary and a Treasurer who may or may not be members of the Board and it may combine those offices. . . .

Revisor's Note

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

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

Revised Law

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

Source Law

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

Revised Law

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

Source Law

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

Revised Law

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

Source Law

> (a) . . . [Such Directors] . . . each shall give bond in the amount of Five Thousand Dollars ($5,000) for the faithful performance of his duties, ...

Revisor's Note

> Section 5(a), Chapter 364, Acts of the 57th Legislature, Regular Session, 1961, provides that the district shall pay the cost of a director's bond. The revised law omits that provision because it duplicates part of Section 49.055(c), Water Code. The omitted law reads:
>
> > (a) . . . [each shall give bond] . . . the cost of which shall be paid by the District. . . .

Revised Law

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

Source Law

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

Revisor's Note

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

Revised Law

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

Source Law

(g) [The Board of Directors . . . may] . . . provide for the payment of all expenditures deemed essential to the proper operation and maintenance of the District and its affairs.

Revised Law

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

Source Law

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

Revisor's Note
(End of Subchapter)

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

(a) . . . Such Directors shall subscribe to the Constitutional oath of

office and . . . .

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

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

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

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

(4) Section 5(e), Chapter 364, Acts of the 57th Legislature, Regular Session, 1961, provides that a director may receive fees not to exceed $10 for each board meeting or $20 for board meetings held in the same calendar month. The revised law omits that provision for the following reasons. Section 49.060, Water Code, also provides for a director's fees of office, computed on a rate per day of certain service. Section 49.060(a), Water Code, requires the board to adopt a resolution setting the fees of office in accordance with the requirements of Section 49.060. Section 49.060(e), Water Code, provides that, in all areas of conflict, Section 49.060 takes precedence over all prior statutory enactments. The omitted law reads:

> (e) The Directors may receive such fees for attending Board meetings as may be established by unanimous vote of the Board, but not to exceed Ten Dollars ($10) for each

> meeting and no more than Twenty Dollars ($20) for meetings held in any one calendar month. . . .

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

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

SUBCHAPTER C. POWERS AND DUTIES

Revised Law

Sec. 9305.0301. GENERAL POWERS. The district may:

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

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

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

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

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

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

(B) agricultural and land treatment measures; and

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

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

Source Law

> Sec. 2. The District herein created shall be and it is hereby empowered to control, store and distribute the waters and floodwaters within the District for the conservation, preservation, reclamation and improvement of the soil and lands or in aid thereof within the District; to carry out flood prevention measures to prevent or aid in the prevention of damage to land and soil and the fertility thereof; to engage in land treatment measures to prevent deterioration, erosion and loss of land and soil; to carry out preventive and control measures within the District; to construct, acquire, improve, carry out, maintain, repair and operate dams, structures, projects and works of improvement for flood prevention (including structural and land treatment measures) and for agricultural and land treatment measures and for agricultural phases of the conservation, development, utilization and disposal of water within the District and to purchase or acquire other facilities and equipment necessary in connection therewith and to engage in activities necessary to carry out these functions; . . . .

Revised Law

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

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

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

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

Source Law

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

Revisor's Note

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

(2) Section 6, Chapter 364, Acts of the 57th Legislature, Regular Session, 1961, provides that "the District shall have the right to acquire [certain property] by condemnation." The revised law substitutes "the district may exercise the power of eminent domain to acquire [certain property]" for the quoted language because the phrases have the same meaning and the latter is consistent with modern usage in laws relating to eminent domain.

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

statute.

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

Revised Law

Sec. 9305.0303. COST OF RELOCATING OR ALTERING PROPERTY. (a) In this section, "sole expense" means the actual cost of relocating, raising, lowering, rerouting, changing the grade of, or altering the construction of a facility described by Subsection (b) in providing comparable replacement without enhancing the facility, after deducting from that cost the net salvage value derived from the old facility.

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

Source Law

Sec. 6. . . . In the event that the District, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, re-routing or changing the grade of, or altering the construction of

any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary relocation, raising, re-routing, changing of grade or alteration of construction shall be accomplished at the sole expense of the District.

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

Revised Law

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

Source Law

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

Revisor's Note

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

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

Revised Law

Sec. 9305.0305. POWER TO QUALIFY FOR BENEFITS UNDER OTHER LAW. The district has the power necessary to fully qualify for and

gain the full benefits of any law helpful in carrying out the purposes for which the district is created. (Acts 57th Leg., R.S., Ch. 364, Sec. 2 (part).)

Source Law

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

Revisor's Note

(1) Section 2, Chapter 364, Acts of the 57th Legislature, Regular Session, 1961, authorizes the district to cooperate with certain entities to implement the act, and specifically authorizes the district to cooperate with state and federal entities to receive benefits under Public Law 566, 83rd Congress, Chapter 656, 2nd Session, H.R. 6788, as amended, now codified as the Watershed Protection and Flood Prevention Act (16 U.S.C. Section 1001 et seq.), and any state law. The revised law omits that provision because it duplicates other law. To the extent the provision authorizes the district to receive various benefits under the Watershed Protection and Flood Prevention Act and any state law, it duplicates, in substance, a later part of Section 2, revised as this section, which provides that the district has the power necessary to fully qualify and gain the full benefits of any law, including that act and any state law, that is helpful in carrying out the purposes for which the district is created. To the extent the provision authorizes the district to cooperate with certain entities to receive those benefits, it duplicates, in substance, Section 49.227, Water Code, which provides the district with the power to act jointly with any person or entity in the performance of

any of the powers permitted by law. The omitted law reads:

> Sec. 2. [The District herein created shall be and it is hereby empowered] . . . to co-operate with other conservation districts, county officials, conservation officials and personnel of the county, State and Federal Government, State Soil Conservation Board, State Agricultural Department, Secretary of Agriculture of the United States, and other county, State and Federal agencies and departments in order to carry out the purposes of this Act. Without limiting the generality of the foregoing the District shall be and it is hereby empowered to co-operate with the State and Federal Government, their agencies, departments and representatives in getting assistance, aid, benefits, grants, credit and money as provided in Public Law 566, Eighty-third Congress, Chapter 656, Second Session H.R. 6788, and amendments thereto, and as may now or hereafter be provided by any laws of the State of Texas, ...

(2) Section 2, Chapter 364, Acts of the 57th Legislature, Regular Session, 1961, provides that "it being the intention of the Legislature that the District herein created" shall have certain powers. The revised law omits the quoted language as unnecessary because it is implied that a statute expresses the intent of the legislature and also because the creation of the district has already been accomplished.

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

> Sec. 2. . . . the provisions of all

such laws of which the District may lawfully avail itself are hereby adopted by this reference and made applicable to the District.

Revisor's Note
(End of Subchapter)

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

> Sec. 2. [The District herein created shall be and it is hereby empowered] . . . to obtain options upon and to acquire, by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, any property, real or personal, or rights or interest therein within the District necessary to carry out the purposes of this Act and to maintain, administer, and improve any properties acquired; to purchase or acquire land, easements or rights-of-way within the District necessary to carry out the purposes of this Act; . . . .

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Revised Law

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

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

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

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

(1) ordered by the board; and

(2) held and conducted, with notice provided and

results determined, in the manner provided by this chapter relating to elections for the authorization of bonds.

(c) In ordering a tax election authorized by this section, the board must specify the maximum proposed tax rate. To impose a maintenance tax at a rate that exceeds the maximum rate approved by the voters, the board must submit the question of a tax rate increase to the voters in the manner provided by this section. (Acts 57th Leg., R.S., Ch. 364, Sec. 11 (part).)

Source Law

> Sec. 11. The Board of Directors may upon a favorable majority vote of the qualified property taxpaying electors of the District, voting at an election held for the purpose within the boundaries of such District, levy, assess and collect annual taxes to provide funds necessary to construct or acquire, maintain and operate works, plants and facilities deemed essential or beneficial to the District and its purposes, and also when so authorized may levy, assess and collect annual taxes to provide funds adequate to defray the cost of the maintenance, operation and administration of the District. Elections for the levy of such taxes shall be ordered by the Board of Directors and notice thereof shall be given and same shall be held and conducted and the results thereof determined in the manner provided herein with relation to elections for the authorization of bonds. . . . In calling an election for taxes under this Section 11, the Board of Directors shall specify the maximum rate of tax which is sought to be levied and no tax in excess of that amount may be levied without submitting the question of the increased rate of taxation at an election as provided.

Revisor's Note

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

To the extent that Section 11 purports to limit participation in the election to "property taxpaying

electors," the revised law omits the property taxpaying requirement because in Hill v. Stone, 421 U.S. 289 (1975), the United States Supreme Court determined that property ownership as a qualification for voting is an unconstitutional denial of equal protection. The revised law substitutes "voters" for "electors" because the terms have the same meaning and "voters" is more commonly used.

(2) Section 11, Chapter 364, Acts of the 57th Legislature, Regular Session, 1961, authorizes the district to "levy, assess and collect annual taxes" to provide "funds" necessary or adequate to pay costs associated with certain district purposes, and refers to the maximum amount of a tax that may "be levied" by the district. The revised law substitutes "impose" for references to the levy, assessment, and collection of taxes because "impose" is the term generally used in Title 1, Tax Code, and includes the levy, assessment, and collection of an ad valorem tax. The revised law specifies that the tax is an "ad valorem" tax because it is clear from the source law that the tax is a property tax, and "ad valorem" tax is the term most commonly used in Texas law to refer to a tax on property. Throughout this chapter, the revised law substitutes "money" for "funds" because, in context, the terms have the same meaning and "money" is more commonly used.

(3) Section 11, Chapter 364, Acts of the 57th Legislature, Regular Session, 1961, provides that taxes levied by the district constitute a lien on the property against which they are levied and that a limitation does not bar the enforcement or collection of those taxes. The revised law omits that provision to the effect that taxes imposed by the district

constitute a lien on the property taxed because it duplicates, in substance, Section 32.01, Tax Code, which provides that a tax lien attaches to property to secure the payment of all taxes, penalties, and interest imposed on the property. The revised law omits that provision to the effect that a limitation does not bar the enforcement or collection of those taxes because it was repealed by Section 6(b), Chapter 841, Acts of the 66th Legislature, Regular Session, 1979, which repealed all "general, local, and special laws" that conflicted with that act. The 1979 act enacted the Property Tax Code (Title 1, Tax Code), a comprehensive, substantive codification of the laws governing the administration of ad valorem taxes. Section 33.05, Tax Code, provides for a statute of limitations on suits to collect delinquent taxes. Sections 32.01 and 33.05, Tax Code, apply to the district under Section 1.02, Tax Code. The omitted law reads:

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

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

Revised Law

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

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

Source Law

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

Revised Law

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

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

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

Source Law

> Sec. 13. The Board of Directors shall designate one or more banks to serve as depository for the funds of the District. All funds of the District shall be deposited in such depository bank or banks except that funds shall be remitted to the bank or banks of payment of principal of and interest on outstanding bonds of the District. . . . Membership on the Board of Directors of an officer or director of a bank shall not disqualify such bank from being designated as depository.

Revisor's Note

Section 13, Chapter 364, Acts of the 57th Legislature, Regular Session, 1961, requires a bank to secure district money deposited at the bank in the manner provided by law for the security of county money, to the extent that the district money deposited is not insured by the Federal Deposit Insurance Corporation. The revised law omits that provision because it duplicates, in substance, Sections 2257.021 and 2257.022, Government Code, which establish the amount and manner of security required for a deposit of public funds. Those sections apply to the security for district money under Sections 2257.002 and 2257.004, Government Code. The omitted law reads:

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

Revised Law

Sec. 9305.0404. PAYMENT OF TAX OR ASSESSMENT NOT REQUIRED. The district is not required to pay a tax or assessment on a district project or any part of the project. (Acts 57th Leg., R.S., Ch. 364, Sec. 15 (part).)

Source Law

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

Revisor's Note
(End of Subchapter)

Section 12, Chapter 364, Acts of the 57th Legislature, Regular Session, 1961, provides that laws applicable to the imposition of ad valorem taxes by a water control and improvement district, as provided under Chapter 25, General Laws, Acts of the 39th Legislature, Regular Session, 1925, apply to the district. The revised law omits that provision. The relevant provisions of Chapter 25, General Laws, Acts of the 39th Legislature, Regular Session, 1925, were codified in 1971 as part of Chapter 51, Water Code. Sections 6(a)(3) and (b), Chapter 841, Acts of the 66th Legislature, Regular Session, 1979, repealed specific provisions relating to the imposition of ad valorem taxes contained in Subchapter M, Chapter 51, Water Code, as well as all "general, local, and special laws" that conflicted with Chapter 841. The 1979 act enacted the Property Tax Code (Title 1, Tax Code), a comprehensive, substantive codification of the laws

governing the administration of ad valorem taxes. Title 1, Tax Code, provides the exclusive procedures for the appraisal of property for and the assessment and collection of ad valorem taxes by a taxing unit, including the district. The omitted law reads:

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

SUBCHAPTER E. BONDS

Revised Law

Sec. 9305.0501. AUTHORITY TO ISSUE BONDS; TAXES FOR BONDS. (a) The district may issue bonds payable from ad valorem taxes imposed on all taxable property in the district to provide dams, structures, projects, and works of improvement for flood prevention, including structural and land treatment measures, to purchase and acquire lands, easements, and rights-of-way and for agricultural phases of conservation, development, and use and disposal of water, for necessary facilities, equipment, and properties in connection therewith and for improvement, maintenance, repair, and operation of same, and to carry out any other power conferred by this chapter.

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

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

Source Law

> Sec. 7. For the purpose of providing dams, structures, projects and works of improvement for flood prevention (including structural and land treatment measures), for the purchase and acquisition

of lands, easements and rights-of-way and for agricultural phases of conservation, development and utilization and disposal of water, and for all other necessary facilities, equipment and properties in connection therewith and for the improvement, maintenance, repair and operation of same and for carrying out any other powers or authority conferred by this Act, the District is empowered to issue negotiable bonds payable from ad valorem taxes to be levied on all taxable property within the District. It shall be the duty of the Board of Directors to levy annual taxes sufficient to pay the bonds and interest thereon as such bonds and interest become due. . . . Such bonds shall be authorized by resolution of the Board of Directors, ...

Revisor's Note

(1) Section 7, Chapter 364, Acts of the 57th Legislature, Regular Session, 1961, authorizes the district to issue "negotiable" bonds. The revised law omits "negotiable" because Section 1201.041, Government Code, provides that a public security is a negotiable instrument. Throughout this chapter, the revised law omits law that is superseded by or duplicates law in Chapter 1201, Government Code, which applies to district bonds under Sections 1201.002 and 1201.003 of that code.

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

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

Revised Law

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

favor the bond issuance.

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

(1) the time and place at which the election will be held;

(2) the purpose for which the bonds will be issued;

(3) the maximum amount of the bonds;

(4) the maximum maturity of the bonds;

(5) the maximum interest rate of the bonds;

(6) the form of the ballot; and

(7) the presiding judge for each polling place.

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

Source Law

> Sec. 8. No bonds, except refunding bonds, shall be issued unless authorized at an election at which . . . a majority of the votes cast at said election is in favor of the issuance of the bonds. Such election may be called by the Board of Directors without a petition. The resolution calling the election shall specify the time and place or places of holding the same, the purpose for which the bonds are to be issued, the maximum amount thereof, the maximum maturity thereof, the maximum interest rate, the form of the ballot and the presiding judge for each voting place. . . . Notice of elections for the issuance of bonds shall be given by publication of a substantial copy of the resolution calling the election in a newspaper of general circulation in the District once each week for two (2) consecutive weeks, the first publication to appear not less than fourteen (14) days prior to the date assigned for the election. . . .

Revisor's Note

(1) Section 8, Chapter 364, Acts of the 57th Legislature, Regular Session, 1961, requires that voters in a bond election own taxable property that has been rendered for ad valorem taxation in the district. The revised law omits that requirement for the reason

stated in Revisor's Note (1) to Section 9305.0401. The omitted law reads:

> Sec. 8. [No bonds . . . shall be issued unless authorized at an election at which] only the qualified electors who reside in the District, and who own taxable property therein, and who have duly rendered the same for taxation, shall be qualified to vote at said election, and unless . . . .

(2) Section 8, Chapter 364, Acts of the 57th Legislature, Regular Session, 1961, provides that an election may be "called" by the board and refers to the "resolution calling the election." The revised law substitutes "order" for the quoted language for the reason stated in Revisor's Note (4) to Section 9305.0401.

(3) Section 8, Chapter 364, Acts of the 57th Legislature, Regular Session, 1961, refers to "voting place." The revised law substitutes "polling place" for "voting place" because "polling place" is the term used in the Election Code.

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

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

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

> Sec. 8. . . . The returns of the election shall be made to and canvassed by the Board of Directors of the District. . . .

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

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

Revised Law

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

(1) issued in the district's name;

(2) signed by the president; and

(3) attested by the secretary. (Acts 57th Leg., R.S., Ch. 364, Sec. 7 (part).)

Source Law

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

Revisor's Note

Section 7, Chapter 364, Acts of the 57th Legislature, Regular Session, 1961, provides that district bonds must bear the district's seal and authorizes "facsimile" signatures and seals. The revised law omits those provisions as unnecessary. The requirement that the bonds bear the district's seal was impliedly repealed by Section 3, Bond Procedures Act of 1981 (Article 717k-6, Vernon's Texas Civil Statutes) (revised in relevant part in 1999 as Section 1201.026(a), Government Code), which provides that bonds may be signed with or without a seal. The authorization for the use of facsimile signatures

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

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

Revised Law

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

Source Law

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

Revisor's Note

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

Revised Law

Sec. 9305.0505. USE OF BOND PROCEEDS. (a) The district may

set aside an amount of proceeds from the sale of district bonds for the payment of interest to accrue during construction and for one year after construction and a reserve interest and sinking fund.

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

(1) the cost of printing and issuing the bonds; and

(2) payment of fees associated with attorneys, fiscal agents, and engineers.

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

Source Law

> Sec. 7. . . . Pending the use of bond proceeds for the purpose for which issued, the Board of Directors may invest same in obligations of or guaranteed by the United States of America. . . . From proceeds from the sale of the bonds the District may set aside an amount for the payment of interest to accrue during construction and one (1) year thereafter and a reserve interest and sinking fund. Proceeds from the sale of the bonds may also be used for the payment of any and all expenses incurred in accomplishing the purposes for which this District is created including but not limited to the payment of attorneys' fees, fiscal agents' fees, engineers' fees, and to pay the cost of printing and issuing the bonds.

Revised Law

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

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

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

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

(e) Instead of issuing bonds to be registered on the surrender and cancellation of the bonds to be refunded, the district, in the resolution authorizing the issuance of the refunding bonds, may provide for the sale of the refunding bonds and the deposit of the proceeds in a bank at which the bonds to be refunded are payable. In that case, the refunding bonds may be issued in an amount sufficient to pay the principal of and interest on the bonds to be refunded to their option date or maturity date, and the comptroller shall register the refunding bonds without the concurrent surrender and cancellation of the bonds to be refunded. (Acts 57th Leg., R.S., Ch. 364, Sec. 9.)

Source Law

> Sec. 9. The District is authorized to issue refunding bonds for the purpose of refunding any outstanding bonds authorized by this Act and interest thereon, without an election. Such refunding bonds may be issued to refund more than one (1) series of outstanding bonds. The provisions of this law with reference to the issuance of other bonds and their approval by the Attorney General and the remedies of the holders shall be applicable to refunding bonds. Refunding bonds shall be registered by the Comptroller upon surrender and cancellation of the bonds to be refunded, but in lieu thereof, the resolution authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the bank where the original bonds are payable, in which case the refunding bonds may be issued in an amount sufficient to pay the principal and interest on the original bonds to their option date or maturity date, and the Comptroller shall register them without concurrent surrender and cancellation of the original bonds.

Revisor's Note

Section 9, Chapter 364, Acts of the 57th Legislature, Regular Session, 1961, refers to provisions of Chapter 364 referencing "approval [of bonds] by the Attorney General" and applies them to refunding bonds. The revised law omits the quoted language because that language and the provisions of the chapter it refers to are superseded by Section 1202.003, Government Code (enacted as Section 3.002(a), Chapter 53, Acts of the 70th Legislature, 2nd Called Session, 1987 (Article 717k-8, Vernon's

Texas Civil Statutes)), which provides for approval of public securities by the attorney general. That section applies to district bonds under Section 1202.001, Government Code.

Revised Law

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

Source Law

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

Revisor's Note
(End of Subchapter)

(1) Section 7, Chapter 364, Acts of the 57th Legislature, Regular Session, 1961, provides that district bonds may be sold at a price and under terms that the board determines to be the most advantageous reasonably obtainable. The revised law omits that provision because it duplicates or is superseded by provisions of general law. Section 1204.006(b), Government Code, enacted as Section 2, Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes), and applicable to district bonds under Sections 1204.001 and 1204.002 of that code, provides that an issuer may sell public securities at any price. Section 1201.022, Government Code, as amended by Section 1, Chapter 769, Acts of the 77th Legislature, Regular Session, 2001, provides that an issuer may sell public securities "under the terms determined by the governing body of the issuer to be in the issuer's best interests." The omitted law reads:

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

(2) Section 7, Chapter 364, Acts of the 57th Legislature, Regular Session, 1961, provides that the interest rate of district bonds may not exceed six percent. The revised law omits that provision because it is superseded by other law. Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes), now Chapter 1204, Government Code, established a maximum interest rate for public securities. Section 1204.006, Government Code, reflecting the amendment of Article 717k-2 by Section 1, Chapter 61, Acts of the 67th Legislature, Regular Session, 1981, permits a public agency to issue public securities at any net effective interest rate of 15 percent or less. Section 1204.006, Government Code, applies to district bonds under Sections 1204.001 and 1204.002 of that code. The omitted law reads:

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

(3) Section 7, Chapter 364, Acts of the 57th Legislature, Regular Session, 1961, provides that district bonds may be called, or redeemed, before maturity at the time and price specified in the resolution authorizing the bonds. The revised law omits that provision because it duplicates, in substance, Sections 1201.021 and 1201.022, Government Code, which provide that a public security may be redeemed before maturity and be payable in specified

amounts and at specified times. The omitted law reads:

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

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

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

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

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

(6) Section 10, Chapter 364, Acts of the 57th Legislature, Regular Session, 1961, requires the

district to deliver bonds it issues to the attorney general for examination and approval. Section 10 also requires the attorney general to approve district bonds if the bonds were authorized under law. In addition, Section 10 provides that after approval the bonds must be registered with the comptroller and that after approval and registration the bonds are incontestable. The revised law omits those provisions as superseded by Chapter 1202, Government Code (enacted as Article 3, Chapter 53, Acts of the 70th Legislature, 2nd Called Session, 1987 (Article 717k-8, Vernon's Texas Civil Statutes), applicable to district bonds under Sections 1202.001 and 1202.003(c) of that code). Section 1202.003, Government Code, provides for approval of the bonds by the attorney general and requires the attorney general to submit the approved bonds to the comptroller for registration. Section 1202.005, Government Code, requires registration of the bonds by the comptroller. Section 1202.006, Government Code, provides that after approval and registration the bonds are incontestable and binding obligations. The omitted law reads:

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

(7) Section 14, Chapter 364, Acts of the 57th Legislature, Regular Session, 1961, lists the entities for which district bonds are legal investments and provides that district bonds may secure deposits of

public funds of the state or political subdivisions. The revised law omits the provision relating to the eligibility of district bonds to be considered as investments for various entities because it duplicates, in substance, Section 49.186(a), Water Code. While Section 14 lists "guardians" and Section 49.186(a), Water Code, does not, Section 49.186(a) includes "fiduciaries," and a guardian is a fiduciary. The revised law omits the provision relating to the use of district bonds as security for deposits of state funds as impliedly repealed by Section 404.0221, Government Code (enacted in 1995), which lists eligible collateral for deposits of state funds by the comptroller, and by Section 404.031, Government Code (enacted in 1985 as Section 3.001, Article 4393-1, Vernon's Texas Civil Statutes), which provides for the valuation of that collateral. As to securing deposits of other funds, the provision is impliedly repealed by Chapter 2257, Government Code (enacted in 1989 as Article 2529d, Vernon's Texas Civil Statutes), which governs eligible collateral for deposits of funds of other public agencies, including political subdivisions, and permits those deposits to be secured by obligations issued by conservation and reclamation districts. The omitted law reads:

> Sec. 14. All bonds of the District shall be and are hereby declared to be legal and authorized investments for banks, saving banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians and sinking funds of cities, towns and villages, counties, school districts or other political subdivisions of the State of Texas, and for all public funds of the State of Texas, or its agencies including the State Permanent School Fund. Such bonds shall be eligible to secure deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school

districts, or other political subdivisions or corporations of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

Revisor's Note
(End of Chapter)

(1) Section 4, Chapter 364, Acts of the 57th Legislature, Regular Session, 1961, provides that the board is not required to call a confirmation election or hold a hearing on the exclusion of land. The revised law omits the provision as executed. The provision is a transition provision addressing the applicability of provisions of the general law in effect at the time of the district's creation that would have required the district to hold both a confirmation election and a hearing on the exclusion of land. The omitted provision negates those general law requirements as inapplicable to this legislatively created district. The power or duty to hold a hearing to exclude land subsequent to the creation of the district is governed by Subchapter J, Chapter 49, Water Code. The omitted law reads:

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

(2) Section 17, Chapter 364, Acts of the 57th Legislature, Regular Session, 1961, provides that the act is severable. The revised law omits that provision because the same result is produced by application of Section 311.032, Government Code (Code Construction Act), which states that a provision of a statute is severable from each other provision of the statute that can be given effect. The omitted law reads:

> Sec. 17. . . . If any provision of the Act shall be invalid, such fact, shall not affect the creation of the District or the validity of any other provision of this Act, and the Legislature here declares that

it would have created the District and enacted the valid provisions of this Act notwithstanding the invalidity of any other provision or provisions hereof.

APPENDIX A

CONFORMING AMENDMENT

SECTION 2.01. ESCONDIDO WATERSHED DISTRICT. Section 3, Chapter 364, Acts of the 57th Legislature, Regular Session, 1961, is amended to read as follows:

Sec. 3. TERRITORY COMPRISING THE DISTRICT. [~~It is expressly determined and found that all of the territory included within the area of the District will be benefited by the works and improvements which are to be accomplished and provided by the District pursuant to the powers conferred by the provisions of Article XVI, Section 59, of the Constitution of Texas and this Act.~~] The area of the Escondido Watershed District shall consist of the property and territory embraced within the following boundaries, to wit:

Beginning at the NW corner of the Julius Hedtke 300.2 acre tract in the Willis Orton Original Grant A-221, being W 10 miles of the County Seat, Karnes City, Texas;

THENCE N 50 degrees E 4000.0 ft. to the NE cor. of the said Hedtke Tract in the D. B. Scott Jr. W. line;

THENCE S 40 degrees E 120.0 ft. to the NW cor. of the J. H. Davidson 100.0 acre tract being in the Julius Hedtke E line;

THENCE N 50 degrees E 5210.0 ft. with the said J. H. Davidson N line to the NE cor. of said tract in the W ROW line of a county rd.;

THENCE N 40 degrees W 3933.3 ft. with the said W line of the county rd. being the E line of the D. B. Scott Jr. 221 acre tract pass the NE cor. of the said Scott tract to the intersection of the W ROW line of the said county rd. and the N ROW line of another county rd., said point being in the E line of the Finley D. Barth E line;

THENCE N 50 degrees E 2880.0 ft. with the said N ROW line of a county rd. to the point of intersection of this ROW line with the E line of the said Willis Orton Original Grant A-221;

THENCE S 40 degrees E 4375.0 ft. with the said Willis Orton E line being the E line of the C. L. Gideon 411.6 acre tract being the southernmost cor. of the B. J. Nichols 414 acre tract;

THENCE S 87 degrees E with the N line of the W. P. Brashear

Original Grant A-57 to the intersection of this line and the W line of the Lusgardo Martinez Original Grant A-196, 815 ft.; this being the SW cor. of said Grant A-196;

THENCE N 3 degrees E 5733.3 ft. with the W line of the said grant pass the NW cor. of said grant to the NW cor. of the T. G. Butler Original Grant A-429 being the NE cor. of the A. C. Gideon 4.4 acre tract;

THENCE N 89 degrees E 24,083.1 ft. with the N line of the said Grant A-429 pass the W line of the said Francisco Ruiz Original Grant A-9 and with the S ROW line of a county rd. being the N line of the D. C. Coldeway 155 acre tract to the NE cor. of this tract;

THENCE S 3 degrees W 2275.0 ft. with the E line of the said Coldeway tract to the SE cor. of said tract in the NE line of the Rudolph Voight 140 acre tract;

THENCE S 87 degrees E 12,384.4 ft. with the Rudolph Voight N line pass his NE cor. with the N. H. Finch 200 acre tract N line cross a county rd. along the Combs and Browne 322 acre tract N line to the E line of the Ruiz Grant A-9 being the NE cor. of the said 322 acre tract;

THENCE S 3 degrees W 1075.0 ft. with the said Ruiz E line being the E line of the Combs and Browne tract to the NW cor. of the Dora Conrads 75 acre tract;

THENCE S 87 degrees E 5634.0 ft. with the Dora Conrads N line across a county rd. with the R. M. Sattler N line to the NE cor. of this tract in the W ROW line of the Kenedy to Karnes City Hy.;

THENCE S 3 degrees W 1200.0 ft. with the Sattler E line to a point in said ROW line;

THENCE N 45 degrees E 6,025.0 ft. across said highway to the J. D. Ruckman SW cor. and with the J. D. Ruckman S line pass the SW cor. of the W. W. Browne tract being the SE cor. of the J. D. Ruckman tract with the S line of the W. W. Browne tract to the SE cor. of said tract being the NE cor. of the E. J. Smolik tract and the NE cor. of the J. Poitevent Original Grant A-323;

THENCE N 45 degrees W 1,500.0 ft. with the said Browne E line

being the O. E. Moore W line across the S.P.R.R. ROW to the NW cor. of the Moore tract in the E line of the Browne tract being the NW cor. of the Andreas Soto Original Grant A-260;

THENCE N 45 degrees E with the said Moore N line being the N line of the said Grant A-260 across a county rd. to the intersection of the W line of the R. W. and Prudie D. Derum Original Grant A-439;

THENCE N 3 degrees E 7,185.0 ft. with the said W line of the A-439 Grant to the N cor. of said Grant being the N cor. of the Annie Bailey 56.57 acre tract;

THENCE S 45 degrees E with the E line of the said A-439 Grant pass the SE cor. of same being the N cor. of the William E. Howth Grant A-144 with the E line of same to the S cor. of the said A-144 Grant in the N line of the said A-260 Original Grant; 5,200.0 ft.;

THENCE N 45 degrees E 545.0 ft. with the said A-260 Grant N line to the NE cor. of the A. M. Bailey 225.5 acre tract being the NW cor. of the S. M. Elder 214.5 acre tract;

THENCE S 45 degrees E with the E line of the A. M. Bailey tract being the W line of the said Elder tract pass a N cor. of the Claude Jennings tract to an interior cor. of the Claude Jennings tract;

THENCE N 45 degrees E with the Claude Jennings N line 1676.4 ft. with the Jennings N line to the NE cor. of same;

THENCE S 45 degrees E 3,058.3 ft. with the Claude Jennings E line to the S cor. of the said Claude Jennings tract in the N line of the Edna Wicker 159.4 acre tract;

THENCE N 45 degrees E 1833.3 ft. with the Edna Wicker N line to the NE cor. of same being the NW cor. of the E. Elder 95 acre tract;

THENCE S 45 degrees E 2000 ft. with the said Edna Wicker E line to the N side of a county rd. being the SE cor. of the Edna Wicker tract;

THENCE S 45 degrees W 700.3 ft. with the S line of the Wicker tract being the N ROW line of a county Rd.;

THENCE S 45 degrees E 4895.0 ft. with the David Banduen 165 acre tract to the intersection of this line with the NW ROW line of a

county Rd. being the SE cor. of the David Banduen tract;

THENCE S 11 degrees W 1966.6 ft. with the N ROW line of said road past the Burlie Burris East corner to a point in the SE line of the Burlie Burris 37 acre tract.

THENCE S 45 degrees E 3366.6 ft. across the said rd. with the W. J. Green W line to the SE cor. of same being in the S line of the J. B. Dupree Original Grant A-86;

THENCE N 45 degrees E 2,320.0 ft. with the S line of the said A-86 Grant being the N line of the John Huth and Carl Houck to the NE cor. of same;

THENCE S 45 degrees E 3325.0 ft. with the Houck E line being the P. R. Goff W line to the SE cor. of the Houck tract being the SW cor. of the Goff tract on the N ROW line of a county rd.;

THENCE N 45 degrees E 4366.6 ft. with the N ROW line being the S line of the P. R. Goff 220 acre tract to a point in the P. R. Goff S line;

THENCE S 45 degrees E 7366.6 ft. across said county rd. to the NE cor. of the Valda E. Ruhmann 808 acre tract and with the E line of said Ruhmann tract being the W ROW line of a county rd. across the county rd. to the S ROW line of said rd. being in the N line of the K. L. Handy 259.2 acre tract;

THENCE N 45 degrees E 4410.0 ft. with the N line of the K. L. Handy tract pass the common cor. of the Handy tract and the Bertha B. Ruhmann 333.8 acre tract to the NE cor. of said Ruhmann tract being the NW cor. of the N. E. Colbath et al 677.6 acre tract;

THENCE S 45 degrees E 3585.0 ft. with the common line between the said Ruhmann and Colbath tracts to a SW cor. of the Colbath tract in the Ruhmann line;

THENCE N 45 degrees E 1733.7 ft. with the Colbath line to an interior cor. of the Colbath tract;

THENCE S 45 degrees E 1666.6 ft. with the Colbath and Ruhmann common line to an interior cor. of the Ruhmann tract and a S cor. of the Colbath tract;

THENCE S 45 degrees E 4320.0 ft. with the said Colbath tract

to the W bank of the San Antonio River;

THENCE down the meanders of the San Antonio River S 1 degrees W 1422.7 ft.; S 25 degrees W 475.0 ft., S 3 degrees E 866.6 ft.; S 59 degrees 30 minutes E 1566.6 ft.; S 25 degrees E 2500 ft.; S 50 degrees W 1560.0 ft.; S 17 degrees W 566.6 ft.; S 49 degrees E 851.0 ft.; N 80 degrees E 3178.5 ft.; N 43 degrees E 600 ft.; N 2 degrees W 466.6 ft.; N 40 degrees W 500 ft.; N 50 degrees E 1080.0 ft.; S 81 degrees E 558.6 ft.; S 7 degrees E 655.0 ft.; S 29 degrees W 1005.0 ft.; S 5 degrees E 866.8 ft.; to the NE cor. of the Ruth Ingram 1000 acre tract on the S ROW line of a county rd.;

THENCE S 45 degrees W 9482.4 ft. with the N line of the Ruth Ingram tract and the S line of said County rd. to the NW cor. of said Ruth Ingram tract being the E ROW line of a county rd.;

THENCE S 34 degrees E 5485.0 ft. with the said E ROW line pass the John Smolik NW cor. to the SE cor. of the Della Tips 2037.5 acre tract across the county rd.;

THENCE S 42 degrees 30 minutes W 10,233.3 ft. across the said county rd. to the Della Tips SE cor. and with the Della Tips S line to the SW cor. of said tract;

THENCE N 45 degrees W 4675.0 ft. with the SW line of the Della Tips tract pass the SE cor. of the H. H. Kerpeck tract to the NE cor. of said Kerpeck tract;

THENCE S 45 degrees W with the said Kerpeck N line to the NW cor. of said tract across a county rd. and with the S ROW line of said rd. to a cor. in said rd.; 2378.4 ft. in all;

THENCE N 46 degrees W 1616.6 ft. across said county rd. and with the E ROW line of said rd. being the W line of the L. K. Thigpen 201.24 acre tract to a point opposite S cor. of the C. Kerpeck tract across said county rd.;

THENCE N 64 degrees W 1491.2 ft. across said county rd. pass the said S cor. of the Kerpeck tract and with the Kerpeck S Line to a cor. of the Kerpeck tract;

THENCE N 44 degrees W 1118.9 ft. with the Kerpeck W line to the NW cor. of said tract in the S ROW line of a county rd.;

THENCE S 42 degrees W 2442.5 ft. with the said S ROW line across a county rd. to the W ROW line of a county rd. being the SE cor. of the Annie M. Loesch tract;

THENCE S 45 degrees W 771.3 ft. to the SW cor. of the said Loesch tract;

THENCE N 45 degrees W 1927.4 ft. with the said Loesch W line to an interior cor. of said tract;

THENCE S 45 degrees W 2249.7 ft. with the Annie M. Loesch S line pass the W cor. of the said Loesch tract being the SE cor. of the A. M. Green 175 ac. tract and with the S line of said Green tract to the S cor. of said tract in the Verita and F. H. Korth 159.5 ac. tract E line;

THENCE S 46 degrees E 1883.6 ft. with the Korth E line to the SE cor. of same;

THENCE S 45 degrees W 2731.5 ft. with the said Korth S line pass the SW cor. of same to the W ROW line of a county rd.;

THENCE N 46 degrees W 1181.2 ft. with the W line of said county rd. to the SE cor. of the Temple Stapleton 50.2 ac. tract;

THENCE S 45 degrees W 1157.1 ft. with the Temple Stapleton S line to the S cor. of said Stapleton tract;

THENCE N 45 degrees W 745.9 ft. with the Stapleton SW line to an anterior cor. of said tract;

THENCE S 45 degrees W 2313.9 ft. with the Temple Stapleton S line pass the SW cor. of same and with the E. Schroeder S line pass the Common cor. between the said Schroeder SW cor. and the L. Roach SW cor. with the L. Roach S line to the SW cor. of the said Roaach [1] tract;

THENCE N 45 degrees W 932.5 ft. with the Roach W line to the NW cor. of the Roach tract being in the S line of the Mrs. E. A. Johnson 100 ac. tract;

THENCE S 45 degrees W 1157.1 ft. with the S line of the said Johnson tract across the Overby rd. to the W ROW line of same;

THENCE N 45 degrees W 2957.6 ft. with the W ROW line of said county rd. to the intersection of this ROW line with the Raymond

Whipple E line;

THENCE S 6 degrees E 3895.2 ft. with the E line of the Raymond Whipple tract to the S cor. of same;

THENCE S 45 degrees W with the M. L. Chesnutt 409.0 ac. tract S line across a county rd. to the SE cor. of the M. L. Chesnutt 155.5 ac. tract 2248.7 ft.;

THENCE N 46 degrees W 2488.9 ft. with the said 155.5 ac. tract E line to the NE cor. of said tract;

THENCE S 44 degrees W with the said Chesnutt N line pass the Joe Krawietz SW cor. pass the Chesnutt NW cor. being the E. Strawn SW cor. with the Floyd Swoap N line pass the J. O. Russell SW cor. to the SW cor. of the M. T. Buckaloo 66.5 ac. tract 5177.8 ft. in all;

THENCE S 46 degrees E 1759.8 ft. with the said Swoap W line being the E ROW line of a county rd. to a point opposite the SE cor. of the R. A. David 108 ac. tract;

THENCE S 49 degrees W 2185.4 ft. with the David S line to the SW cor. of same;

THENCE N 45 degrees W 1181.3 ft. with the David W line across the old Hy. 181 to the W ROW line of same;

THENCE S 21 degrees and 10 minutes W 899.6 ft. with the said ROW line to the S. cor. of the H. H. Schuenemann 123.42 ac. tract;

THENCE N 45 degrees W 1800.2 ft. with the Schuenemann W line to an interior cor. of same;

THENCE N 82 degrees 45 minutes W 4155.3 ft. with the H. H. Schuenemann S line pass the SW cor. with the W. T. Homeyer S line to the SW cor. of the Homeyer 255 ac. tract;

THENCE S 3 degrees W 2146.9 ft. with the Mable Davis E line to the S cor. of same being the N cor. of the W. S. Grunewald 79 ac. tract;

THENCE S 14 degrees E 288.0 ft. with the Grunewald E line to the SE cor. of same;

THENCE S 45 degrees W 6900.0 ft. with the Grunewald SE line to the SW cor. of same in the E ROW line of a county rd. across said county rd. and with the NW ROW line of the county rd. pass the R. W.

Jones et al. 268 ac. tract and the L. W. Scott 124.73 ac. tract to the SW cor. of the L. W. Scott 62.37 ac. tract;

THENCE N 45 degrees W 3395.0 ft. with the Scott W line pass the NW cor. of same to a point in the James H. Wright W line being the SE cor. of the John Polson 136 ac. tract;

THENCE S 45 degrees W 3933.3 ft. with the John Polson S line to the SW cor. of same in the E ROW line of county rd.;

THENCE N 45 degrees W 6366.6 ft. with the said county rd. E line pass the John Polson NW cor. being the J. M. Ruhmann SW cor., pass the J. M. Ruhmann NW cor. and across State Hy. 72 to the SW cor. of the John Beck 587.5 ac. tract;

THENCE S 46 degrees 15 minutes W with the NW ROW line of St. Hy. 72 pass the O. L. Bagwell SW cor. pass the Tom M. Leggett SW cor. to the SW cor. of the John W. Regmund 735.85 ac. tract;

THENCE N 45 degrees W 6100.0 ft. with the W line of the said Regmund tract to the NW cor. of same being the SW cor. of the Geo. Heider 205.4 ac. tract;

THENCE N 20 degrees W 4200.0 ft. with the Geo. Heider W line across a county rd. to the SW cor. of the S. E. Crews 2643 ac. tract;

THENCE S 70 degrees W 1943.5 ft. across a county rd. and with the S line of the Ida Carroll 112 ac. tract to the SW cor. of same;

THENCE N 20 degrees W 2625.0 ft. with the Ida Carroll W line to the NW cor. of same in the Herbert Rudolph S line;

THENCE S 70 degrees W 1876.8 ft. to the SW cor. of the Herbert Rudolph tract in the E ROW line of a county rd.;

THENCE N 20 degrees W with the E ROW line of the County rd. pass the NW cor. of the Herbert Rudolph tract to the NW cor. of the E. Rudolph 197.5 ac. tract;

THENCE N 15 degrees W 4075.0 ft. with the said E ROW line of the county rd. to the NW cor. of the Edgar M. Ladewig 305.9 ac. tract, across county rd. to a point in the S line of the A. N. Wells 292.5 ac. tract;

THENCE S 70 degrees W 2093.6 ft. with the Wells S line to the SE cor. of same;

THENCE N 20 degrees W 3825.0 ft. with the Wells W line being the E ROW line of a county rd.;

THENCE N 70 degrees E 1771.4 ft. with the Wells N line to the SE cor. of the B. W. Klingeman tract in the N line of the Wells tract;

THENCE N 20 degrees W 3666.6 ft. with the common line between the said Klingeman tract and the Alex Kowald 200 ac. tract across a county rd. to the S line of the Fred Klingeman tract;

THENCE S 70 degrees W 1563.5 ft. with the Klingeman S line to the SW cor. of same;

THENCE N 20 degrees W 3000.0 ft. with the said Klingeman W line to the NW cor. in the R. Best S line;

THENCE S 70 degrees W 2953.5 ft. with the said Best S line to the SW cor. of same;

THENCE N 20 degrees W 5225.0 ft. with the Best W line being the W line of the James Bradberry A-24 Original Grant to the NW cor. of the Best tract;

THENCE N 70 degrees E 2451.4 ft. with the N line of the Best tract to the SE cor. of the Horace L. Smith 238 ac. tract in the Best N line;

THENCE N 20 degrees W 4450.0 ft. with the said Smith E line being the D. B. Scott W line pass the NE cor. of the said Scott tract across a county rd. to the SW cor. of the Alvin Ripps 169.5 ac. tract being the SE cor. of the Vallie Jarvis tract;

THENCE S 70 degrees W 9468.5 ft. with the N ROW line of the said county rd. pass the Vallie Jarvis SW cor. across a county rd. pass the H. L. Smith SW cor. pass the Howard Stanfield S cor. to the R. L. Gideon SW cor.;

THENCE N 40 degrees W 8333.3 ft. with the Gideon W line and the E line of a county rd. pass the Herbert Weigang SW cor. pass the Julius Hedtke SW cor. to the place of beginning, containing 80,158.23 acres of land, more or less.

REPEALERS

SECTION 3.01. WILLACY COUNTY NAVIGATION DISTRICT. The

following statutes are repealed:

(1) Chapter 404, Acts of the 53rd Legislature, Regular Session, 1953;

(2) Chapter 135, Acts of the 54th Legislature, Regular Session, 1955;

(3) Chapter 141, Acts of the 55th Legislature, Regular Session, 1957;

(4) Chapter 392, Acts of the 56th Legislature, Regular Session, 1959;

(5) Sections 2 and 3, Chapter 449, Acts of the 56th Legislature, Regular Session, 1959;

(6) Sections 2 and 3, Chapter 654, Acts of the 60th Legislature, Regular Session, 1967; and

(7) Sections 2 and 3, Chapter 892, Acts of the 81st Legislature, Regular Session, 2009.

SECTION 3.02. GUADALUPE-BLANCO RIVER AUTHORITY. The following statutes are repealed:

(1) Chapter 75, Acts of the 43rd Legislature, 1st Called Session, 1933;

(2) Chapter 45, Acts of the 58th Legislature, Regular Session, 1963;

(3) Sections 2, 3, and 4, Chapter 432, Acts of the 61st Legislature, Regular Session, 1969;

(4) Sections 2 and 3, Chapter 433, Acts of the 64th Legislature, Regular Session, 1975; and

(5) Sections 10, 12, and 13, Chapter 22, Acts of the 86th Legislature, Regular Session, 2019.

SECTION 3.03. UPPER GUADALUPE RIVER AUTHORITY. The following statutes are repealed:

(1) Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939;

(2) Sections 1 and 2, Chapter 193, Acts of the 59th Legislature, Regular Session, 1965;

(3) Section 2, Chapter 632, Acts of the 59th

Legislature, Regular Session, 1965;

(4) Section 6, Article IV, Chapter 484, Acts of the 68th Legislature, Regular Session, 1983;

(5) Section 2, Chapter 1059, Acts of the 68th Legislature, Regular Session, 1983;

(6) Section 2, Chapter 830, Acts of the 75th Legislature, Regular Session, 1997;

(7) Sections 2 and 3, Chapter 1544, Acts of the 76th Legislature, Regular Session, 1999; and

(8) Sections 6, 7, and 8, Chapter 180, Acts of the 88th Legislature, Regular Session, 2023.

SECTION 3.04. FRANKLIN COUNTY WATER DISTRICT. The following statutes are repealed:

(1) Chapter 719, Acts of the 59th Legislature, Regular Session, 1965;

(2) Chapter 308, Acts of the 60th Legislature, Regular Session, 1967;

(3) Section 3, Chapter 412, Acts of the 69th Legislature, Regular Session, 1985;

(4) Section 2, Chapter 59, Acts of the 72nd Legislature, Regular Session, 1991; and

(5) Section 2, Chapter 3, Acts of the 75th Legislature, Regular Session, 1997.

SECTION 3.05. ESCONDIDO WATERSHED DISTRICT. Sections 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, and 17, Chapter 364, Acts of the 57th Legislature, Regular Session, 1961, are repealed.

GENERAL MATTERS

SECTION 4.01. LEGISLATIVE INTENT OF NO SUBSTANTIVE CHANGE. This Act is enacted under Section 43, Article III, Texas Constitution. This Act is intended as a codification only, and no substantive change in law is intended by this Act. This Act does not increase or decrease the territory of any special district of the state as those boundaries exist on the effective date of this Act.

SECTION 4.02. PRESERVATION OF VALIDATION MADE BY PREVIOUS LAW. (a) The repeal of a law, including a validating law, by this Act does not remove, void, or otherwise affect in any manner a validation under the repealed law. The validation is preserved and continues to have the same effect that it would have if the law were not repealed.

(b) Subsection (a) of this section does not diminish the saving provisions prescribed by Section 311.031, Government Code.

SECTION 4.03. EFFECTIVE DATE. This Act takes effect April 1, 2027.

APPENDIX B

CHAPTER 311. CODE CONSTRUCTION ACT

(current as of end of 89th Legislature, 2nd Called Session, 2025)

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 311.001. SHORT TITLE. This chapter may be cited as the Code Construction Act.

Sec. 311.002. APPLICATION. This chapter applies to:

(1) each code enacted by the 60th or a subsequent legislature as part of the state's continuing statutory revision program;

(2) each amendment, repeal, revision, and reenactment of a code or code provision by the 60th or a subsequent legislature;

(3) each repeal of a statute by a code; and

(4) each rule adopted under a code.

Sec. 311.003. RULES NOT EXCLUSIVE. The rules provided in this chapter are not exclusive but are meant to describe and clarify common situations in order to guide the preparation and construction of codes.

Sec. 311.004. CITATION OF CODES. A code may be cited by its name preceded by the specific part concerned. Examples of citations are:

(1) Title 1, Business & Commerce Code;

(2) Chapter 5, Business & Commerce Code;

(3) Section 9.304, Business & Commerce Code;

(4) Section 15.06(a), Business & Commerce Code; and

(5) Section 17.18(b)(1)(B)(ii), Business & Commerce Code.

Sec. 311.005. GENERAL DEFINITIONS. The following definitions apply unless the statute or context in which the word or phrase is used requires a different definition:

(1) "Oath" includes affirmation.

(2) "Person" includes corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, and any other legal

entity.

(3) "Population" means the population shown by the most recent federal decennial census.

(4) "Property" means real and personal property.

(5) "Rule" includes regulation.

(6) "Signed" includes any symbol executed or adopted by a person with present intention to authenticate a writing.

(7) "State," when referring to a part of the United States, includes any state, district, commonwealth, territory, and insular possession of the United States and any area subject to the legislative authority of the United States of America.

(8) "Swear" includes affirm.

(9) "United States" includes a department, bureau, or other agency of the United States of America.

(10) "Week" means seven consecutive days.

(11) "Written" includes any representation of words, letters, symbols, or figures.

(12) "Year" means 12 consecutive months.

(13) "Includes" and "including" are terms of enlargement and not of limitation or exclusive enumeration, and use of the terms does not create a presumption that components not expressed are excluded.

(14) "Boy" means a child of the male sex.

(15) "Father" means a parent of the male sex.

(16) "Female" and "woman" mean an individual whose biological reproductive system is developed to produce ova.

(17) "Girl" means a child of the female sex.

(18) "Male" and "man" mean an individual whose biological reproductive system is developed to fertilize the ova of a female.

(19) "Mother" means a parent of the female sex.

(20) "Sex" means an individual's biological sex, either male or female.

Sec. 311.006. INTERNAL REFERENCES. In a code:

(1) a reference to a title, chapter, or section without further identification is a reference to a title, chapter, or section of the code; and

(2) a reference to a subtitle, subchapter, subsection, subdivision, paragraph, or other numbered or lettered unit without further identification is a reference to a unit of the next larger unit of the code in which the reference appears.

SUBCHAPTER B. CONSTRUCTION OF WORDS AND PHRASES

Sec. 311.011. COMMON AND TECHNICAL USAGE OF WORDS. (a) Words and phrases shall be read in context and construed according to the rules of grammar and common usage.

(b) Words and phrases that have acquired a technical or particular meaning, whether by legislative definition or otherwise, shall be construed accordingly.

Sec. 311.012. TENSE, NUMBER, AND GENDER. (a) Words in the present tense include the future tense.

(b) The singular includes the plural and the plural includes the singular.

(c) Words of one gender include the other genders.

Sec. 311.013. AUTHORITY AND QUORUM OF PUBLIC BODY. (a) A grant of authority to three or more persons as a public body confers the authority on a majority of the number of members fixed by statute.

(b) A quorum of a public body is a majority of the number of members fixed by statute.

Sec. 311.014. COMPUTATION OF TIME. (a) In computing a period of days, the first day is excluded and the last day is included.

(b) If the last day of any period is a Saturday, Sunday, or legal holiday, the period is extended to include the next day that is not a Saturday, Sunday, or legal holiday.

(c) If a number of months is to be computed by counting the months from a particular day, the period ends on the same numerical day in the concluding month as the day of the month from which the

computation is begun, unless there are not that many days in the concluding month, in which case the period ends on the last day of that month.

Sec. 311.015. REFERENCE TO A SERIES. If a statute refers to a series of numbers or letters, the first and last numbers or letters are included.

Sec. 311.016. "MAY," "SHALL," "MUST," ETC. The following constructions apply unless the context in which the word or phrase appears necessarily requires a different construction or unless a different construction is expressly provided by statute:

(1) "May" creates discretionary authority or grants permission or a power.

(2) "Shall" imposes a duty.

(3) "Must" creates or recognizes a condition precedent.

(4) "Is entitled to" creates or recognizes a right.

(5) "May not" imposes a prohibition and is synonymous with "shall not."

(6) "Is not entitled to" negates a right.

(7) "Is not required to" negates a duty or condition precedent.

SUBCHAPTER C. CONSTRUCTION OF STATUTES

Sec. 311.021. INTENTION IN ENACTMENT OF STATUTES. In enacting a statute, it is presumed that:

(1) compliance with the constitutions of this state and the United States is intended;

(2) the entire statute is intended to be effective;

(3) a just and reasonable result is intended;

(4) a result feasible of execution is intended; and

(5) public interest is favored over any private interest.

Sec. 311.022. PROSPECTIVE OPERATION OF STATUTES. A statute is presumed to be prospective in its operation unless expressly made retrospective.

Sec. 311.023. STATUTE CONSTRUCTION AIDS. In construing a statute, whether or not the statute is considered ambiguous on its face, a court may consider among other matters the:

(1) object sought to be attained;

(2) circumstances under which the statute was enacted;

(3) legislative history;

(4) common law or former statutory provisions, including laws on the same or similar subjects;

(5) consequences of a particular construction;

(6) administrative construction of the statute; and

(7) title (caption), preamble, and emergency provision.

Sec. 311.024. HEADINGS. The heading of a title, subtitle, chapter, subchapter, or section does not limit or expand the meaning of a statute.

Sec. 311.025. IRRECONCILABLE STATUTES AND AMENDMENTS. (a) Except as provided by Section 311.031(d), if statutes enacted at the same or different sessions of the legislature are irreconcilable, the statute latest in date of enactment prevails.

(b) Except as provided by Section 311.031(d), if amendments to the same statute are enacted at the same session of the legislature, one amendment without reference to another, the amendments shall be harmonized, if possible, so that effect may be given to each. If the amendments are irreconcilable, the latest in date of enactment prevails.

(c) In determining whether amendments are irreconcilable, text that is reenacted because of the requirement of Article III, Section 36, of the Texas Constitution is not considered to be irreconcilable with additions or omissions in the same text made by another amendment. Unless clearly indicated to the contrary, an amendment that reenacts text in compliance with that constitutional requirement does not indicate legislative intent that the reenacted text prevail over changes in the same text made by another amendment, regardless of the relative dates of enactment.

(d) In this section, the date of enactment is the date on which the last legislative vote is taken on the bill enacting the statute.

(e) If the journals or other legislative records fail to disclose which of two or more bills in conflict is latest in date of enactment, the date of enactment of the respective bills is considered to be, in order of priority:

(1) the date on which the last presiding officer signed the bill;

(2) the date on which the governor signed the bill; or

(3) the date on which the bill became law by operation of law.

Sec. 311.026. SPECIAL OR LOCAL PROVISION PREVAILS OVER GENERAL. (a) If a general provision conflicts with a special or local provision, the provisions shall be construed, if possible, so that effect is given to both.

(b) If the conflict between the general provision and the special or local provision is irreconcilable, the special or local provision prevails as an exception to the general provision, unless the general provision is the later enactment and the manifest intent is that the general provision prevail.

Sec. 311.027. STATUTORY REFERENCES. Unless expressly provided otherwise, a reference to any portion of a statute or rule applies to all reenactments, revisions, or amendments of the statute or rule.

Sec. 311.028. UNIFORM CONSTRUCTION OF UNIFORM ACTS. A uniform act included in a code shall be construed to effect its general purpose to make uniform the law of those states that enact it.

Sec. 311.029. ENROLLED BILL CONTROLS. If the language of the enrolled bill version of a statute conflicts with the language of any subsequent printing or reprinting of the statute, the language of the enrolled bill version controls.

Sec. 311.030. REPEAL OF REPEALING STATUTE. The repeal of a

repealing statute does not revive the statute originally repealed nor impair the effect of any saving provision in it.

Sec. 311.031. SAVING PROVISIONS. (a) Except as provided by Subsection (b), the reenactment, revision, amendment, or repeal of a statute does not affect:

(1) the prior operation of the statute or any prior action taken under it;

(2) any validation, cure, right, privilege, obligation, or liability previously acquired, accrued, accorded, or incurred under it;

(3) any violation of the statute or any penalty, forfeiture, or punishment incurred under the statute before its amendment or repeal; or

(4) any investigation, proceeding, or remedy concerning any privilege, obligation, liability, penalty, forfeiture, or punishment; and the investigation, proceeding, or remedy may be instituted, continued, or enforced, and the penalty, forfeiture, or punishment imposed, as if the statute had not been repealed or amended.

(b) If the penalty, forfeiture, or punishment for any offense is reduced by a reenactment, revision, or amendment of a statute, the penalty, forfeiture, or punishment, if not already imposed, shall be imposed according to the statute as amended.

(c) The repeal of a statute by a code does not affect an amendment, revision, or reenactment of the statute by the same legislature that enacted the code. The amendment, revision, or reenactment is preserved and given effect as part of the code provision that revised the statute so amended, revised, or reenacted.

(d) If any provision of a code conflicts with a statute enacted by the same legislature that enacted the code, the statute controls.

Sec. 311.032. SEVERABILITY OF STATUTES. (a) If any statute contains a provision for severability, that provision prevails in

interpreting that statute.

(b) If any statute contains a provision for nonseverability, that provision prevails in interpreting that statute.

(c) In a statute that does not contain a provision for severability or nonseverability, if any provision of the statute or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the statute that can be given effect without the invalid provision or application, and to this end the provisions of the statute are severable.

Sec. 311.034. WAIVER OF SOVEREIGN IMMUNITY. In order to preserve the legislature's interest in managing state fiscal matters through the appropriations process, a statute shall not be construed as a waiver of sovereign immunity unless the waiver is effected by clear and unambiguous language. In a statute, the use of "person," as defined by Section 311.005 to include governmental entities, does not indicate legislative intent to waive sovereign immunity unless the context of the statute indicates no other reasonable construction. Statutory prerequisites to a suit, including the provision of notice, are jurisdictional requirements in all suits against a governmental entity.

Sec. 311.035. CONSTRUCTION OF STATUTE OR RULE INVOLVING CRIMINAL OFFENSE OR PENALTY. (a) In this section, "actor" and "element of offense" have the meanings assigned by Section 1.07, Penal Code.

(b) Except as provided by Subsection (c), a statute or rule that creates or defines a criminal offense or penalty shall be construed in favor of the actor if any part of the statute or rule is ambiguous on its face or as applied to the case, including:

(1) an element of offense; or

(2) the penalty to be imposed.

(c) Subsection (b) does not apply to a criminal offense or penalty under the Penal Code or under the Texas Controlled

Substances Act.

(d) The ambiguity of a part of a statute or rule to which this section applies is a matter of law to be resolved by the judge.

Sec. 311.036. CONSTRUCTION OF ABORTION STATUTES. (a) A statute that regulates or prohibits abortion may not be construed to repeal any other statute that regulates or prohibits abortion, either wholly or partly, unless the repealing statute explicitly states that it is repealing the other statute.

(b) A statute may not be construed to restrict a political subdivision from regulating or prohibiting abortion in a manner that is at least as stringent as the laws of this state unless the statute explicitly states that political subdivisions are prohibited from regulating or prohibiting abortion in the manner described by the statute.

(c) Every statute that regulates or prohibits abortion is severable in each of its applications to every person and circumstance. If any statute that regulates or prohibits abortion is found by any court to be unconstitutional, either on its face or as applied, then all applications of that statute that do not violate the United States Constitution and Texas Constitution shall be severed from the unconstitutional applications and shall remain enforceable, notwithstanding any other law, and the statute shall be interpreted as if containing language limiting the statute's application to the persons, group of persons, or circumstances for which the statute's application will not violate the United States Constitution and Texas Constitution.

APPENDIX C

DISPOSITION TABLE

SPECIAL DISTRICT LOCAL LAWS CODE

TITLE 5. TRANSPORTATION

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(c) (part)		5008.0201
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(part)		5008.0504
(part)	RN(1) Subch. E	5008.0504
(part)	RN(2) Subch. E	5008.0504
(part)	RN(3) Subch. E	5008.0504
(part)	RN(4) Subch. E	5008.0504
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(part)	RN Subch. D	5008.0401
Sec. 6		5008.0204
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Sec. 9	RN(2) EOC	5008.0504
Sec. 10	RN(3) EOC	5008.0504
54th Leg., R.S., Ch. 135		
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Sec. 2	RN(1) EOC	5008.0504
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55th Leg., R.S., Ch. 141		
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Sec. 2		5008.0302
Sec. 3	RN(4) EOC	5008.0504
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56th Leg., R.S., Ch. 449		
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Sec. 3	RN(3) EOC	5008.0504
60th Leg., R.S., Ch. 654		
Sec. 2	RN(2) EOC	5008.0504
Sec. 3	RN(3) EOC	5008.0504
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Sec. 2	RN Subch. A	5008.0204
Sec. 3	RN(5) EOC	5008.0504

TITLE 6. WATER AND WASTEWATER

SUBTITLE G. RIVER AUTHORITIES

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(y) (part)		8512.0323
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Sec. 4(a) (part)		8512.0101
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(part)	RN(2)	8512.0203
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