

A NONSUBSTANTIVE REVISION
OF LOCAL LAWS RELATING TO
SPECIAL DISTRICTS

Submitted to the 86th Legislature
as part of the
Texas Legislative Council's
Statutory Revision Program

Austin, Texas

2019

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 The process involves reclassifying and rearranging the statutes in a more logical order, eliminating repealed, invalid, duplicative, and other ineffective provisions while employing a format and numbering system that will accommodate future expansion of the law, and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 468, Acts of the 86th Legislature, Regular Session, 2019, 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, 2021, 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 conforming amendments to several statutes. These amendments, also enacted into law by Chapter 468, Acts of the 86th Legislature, Regular Session, 2019, are printed in Appendix A to the revisor's report. Appendix A also includes a section listing the laws repealed effective April 1, 2021, 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.

The portion of this revision project that concerns navigation districts, port authorities, and river authorities is under the direction of Christopher Clapham, Legislative Counsel, of the Texas Legislative Council's legal division staff. The portion of this revision project that concerns groundwater conservation districts, municipal utility districts, and water control and improvement districts is under the direction of Jessie Coulter, Legislative Counsel, of the Texas Legislative Council's legal division staff. Questions may be directed to the appropriate person at P.O. Box 12128, Capitol Station, Austin, Texas 78711-2128, or by telephone at (512) 463-1151.

1 SPECIAL DISTRICT LOCAL LAWS CODE
2 TITLE 5. TRANSPORTATION
3 SUBTITLE A. NAVIGATION DISTRICTS AND PORT AUTHORITIES
4 CHAPTER 5012. SABINE PASS PORT AUTHORITY
5 CHAPTER 5016. PORT OF CORPUS CHRISTI AUTHORITY OF NUECES COUNTY,
6 TEXAS
7 CHAPTER 5018. ORANGE COUNTY NAVIGATION AND PORT DISTRICT OF
8 ORANGE COUNTY, TEXAS
9 CHAPTER 5019. CHAMBERS-LIBERTY COUNTIES NAVIGATION DISTRICT
10 TITLE 6. WATER AND WASTEWATER
11 SUBTITLE F. MUNICIPAL UTILITY DISTRICTS
12 CHAPTER 8018. HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 319
13 CHAPTER 8020. POLK COUNTY FRESH WATER SUPPLY DISTRICT NO. 2
14 CHAPTER 8021. LAKEWAY MUNICIPAL UTILITY DISTRICT
15 CHAPTER 8022. TANGLEWOOD FOREST LIMITED DISTRICT
16 CHAPTER 8023. THE WOODLANDS METRO CENTER MUNICIPAL UTILITY
17 DISTRICT
18 CHAPTER 8024. BAYBROOK MUNICIPAL UTILITY DISTRICT NO. 1
19 SUBTITLE G. RIVER AUTHORITIES
20 CHAPTER 8508. SULPHUR RIVER BASIN AUTHORITY
21 CHAPTER 8509. PALO DURO WATER DISTRICT
22 SUBTITLE H. DISTRICTS GOVERNING GROUNDWATER
23 CHAPTER 8893. LIVE OAK UNDERGROUND WATER CONSERVATION DISTRICT
24 CHAPTER 8894. HEMPHILL COUNTY UNDERGROUND WATER CONSERVATION
25 DISTRICT
26 SUBTITLE I. WATER CONTROL AND IMPROVEMENT DISTRICTS
27 CHAPTER 9075. FORT BEND COUNTY WATER CONTROL AND IMPROVEMENT
28 DISTRICT NO. 2
29 CHAPTER 9077. BELL COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT
30 NO. 5
31 CHAPTER 9078. FANNIN COUNTY WATER CONTROL AND IMPROVEMENT
32 DISTRICT NO. 1
33 CHAPTER 9079. FORT HANCOCK WATER CONTROL AND IMPROVEMENT DISTRICT
34 OF HUDSPETH COUNTY, TEXAS

1 CHAPTER 9080. HALL AND DONLEY COUNTIES WATER CONTROL AND
2 IMPROVEMENT DISTRICT NO. 1 OF HALL AND DONLEY
3 COUNTIES
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5 DISTRICT NO. 1

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17 CHAPTER 5012. SABINE PASS PORT AUTHORITY

18 SUBCHAPTER A. GENERAL PROVISIONS

19 Revised Law

20 Sec. 5012.0001. DEFINITIONS. In this chapter:

21 (1) "Authority" means the Sabine Pass Port Authority.

22 (2) "Commission" means the authority's port
23 commission.

24 (3) "Commissioner" means a commission member. (Acts
25 63rd Leg., R.S., Ch. 379, Secs. 1 (part), 2 (part).)

26 Source Law

27 Sec. 1. . . . [a port district] to be known as
28 the Sabine Pass Port Authority,

29 Sec. 2. As used herein:

30 (1) "Authority" means the Sabine Pass Port
31 Authority.

32 (2) "Commission" means the port commission
33 of the authority,

34 (3) "Commissioner" means a member of the
35 commission.

36 Revised Law

37 Sec. 5012.0002. LEGISLATIVE FINDINGS OF PURPOSE AND
38 BENEFIT. (a) The authority is a port district essential to

1 accomplish the purposes of Section 59, Article XVI, Texas
2 Constitution.

3 (b) All territory in the authority benefits from the
4 authority's improvements, works, and facilities. (Acts 63rd Leg.,
5 R.S., Ch. 379, Sec. 1 (part).)

6 Source Law

7 Sec. 1. There is hereby created, in addition to
8 the districts into which the state has heretofore been
9 divided, a port district [to be known as the Sabine
10 Pass Port Authority] . . . the creation of such
11 district is hereby determined to be essential to the
12 accomplishment of the purposes of Article XVI, Section
13 59, of the Texas Constitution. . . . It is hereby found
14 that all territory within the boundaries of the Sabine
15 Pass Port Authority as enlarged is and will be
16 benefited by the present and contemplated
17 improvements, works, and facilities of said authority.
18 . . .

19 Revisor's Note

20 (1) Section 1, Chapter 379, Acts of the 63rd
21 Legislature, Regular Session, 1973, provides that the
22 authority "is hereby created." The revised law omits
23 the quoted language as executed.

24 (2) Section 1, Chapter 379, Acts of the 63rd
25 Legislature, Regular Session, 1973, states that the
26 authority is created "in addition to the districts
27 into which the state has heretofore been divided." The
28 revised law omits the quoted language because an
29 accepted general principle of statutory construction
30 requires that a statute be given cumulative effect
31 with other statutes unless the statute provides
32 otherwise or unless the statute conflicts with another
33 statute.

34 (3) Section 1, Chapter 379, Acts of the 63rd
35 Legislature, Regular Session, 1973, provides that the
36 authority is a governmental agency and body politic
37 and corporate with the powers of government. The
38 revised law omits that provision because it duplicates
39 a portion of Section 59(b), Article XVI, Texas

1 Constitution, which provides that a district created
2 under that section is a governmental agency and a body
3 politic and corporate with governmental powers
4 conferred by law. The omitted law reads:

5 Sec. 1. . . . Such district shall be
6 and is hereby declared to be a governmental
7 agency and body politic and corporate with
8 the powers of government and

9 (4) Section 1, Chapter 379, Acts of the 63rd
10 Legislature, Regular Session, 1973, states that all
11 territory inside the authority is benefited by the
12 authority's "present and contemplated" improvements,
13 works, and facilities. The revised law omits "present
14 and contemplated" as unnecessary in this context
15 because the phrase does not add to the clear meaning of
16 the law.

17 (5) Section 1, Chapter 379, Acts of the 63rd
18 Legislature, Regular Session, 1973, as amended by
19 Section 1, Chapter 56, Acts of the 67th Legislature,
20 Regular Session, 1981, provides that the territory
21 included in the authority "as enlarged" is and will be
22 benefited by the authority's improvements, works, and
23 facilities. The revised law omits the quoted language
24 as executed.

25 Revised Law

26 Sec. 5012.0003. AUTHORITY TERRITORY. The authority is
27 composed of the territory in Jefferson County described by Section
28 1, Chapter 379, Acts of the 63rd Legislature, 1973, as that
29 territory may have been modified under:

- 30 (1) Subchapter H, Chapter 62, Water Code; or
- 31 (2) other law. (Acts 63rd Leg., R.S., Ch. 379, Sec. 1
- 32 (part); New.)

33 Source Law

34 Sec. 1. . . . [the Sabine Pass Port Authority,]
35 with boundaries as hereinafter set out. . . . in
36 Jefferson County, Texas,

1 Revisor's Note

2 The revised law does not revise the statutory
3 language describing the territory of the authority by
4 metes and bounds to avoid the lengthy recitation of the
5 description and because that description may not be
6 accurate on the effective date of the revision or at
7 the time of a later reading. For the reader's
8 convenience, the revised law includes a reference to
9 the statutory description of the authority's
10 territory. The revised law also includes a reference
11 to authority to change the authority's territory under
12 Subchapter H, Chapter 62, Water Code. Chapter 62
13 applies to the authority under Section 3, Chapter 379,
14 Acts of the 63rd Legislature, Regular Session, 1973,
15 revised in part in this chapter as Section 5012.0101.
16 The revised law also includes a reference to the
17 general authority of the legislature to enact other
18 laws to change the authority's territory.

19 Revisor's Note
20 (End of Subchapter)

21 Section 1, Chapter 379, Acts of the 63rd
22 Legislature, Regular Session, 1973, which describes
23 the authority's territory, was amended in 1981 by
24 Chapter 56, Acts of the 67th Legislature, Regular
25 Session, to include additional territory and to
26 authorize the commission to hold an election or
27 elections to approve the assumption of the authority's
28 tax-supported bonds by, and the imposition of an ad
29 valorem maintenance tax in, the authority as enlarged
30 by Chapter 56. The revised law omits the provisions
31 relating to the bond and tax elections as executed.
32 The omitted law reads:

33 Sec. 1. . . . Further, the governing
34 body of said authority is authorized to call
35 an election or elections over the entire
36 authority as enlarged for the purpose of

1 determining (1) whether the entire
2 authority as enlarged shall assume the
3 tax-supported bonds of the authority then
4 outstanding and whether an ad valorem tax
5 shall be levied on all taxable property
6 within the authority as enlarged for the
7 payment thereof, and (2) whether an ad
8 valorem maintenance tax (for the
9 maintenance, operation, and upkeep of the
10 authority and its facilities), in such
11 amount as is specified by the governing body
12 of the authority, shall be levied on all
13 taxable property within the authority as
14 enlarged. Said election or elections shall
15 be called and held, and notice thereof
16 given, in the same manner (to the extent
17 pertinent) as elections for the issuance of
18 tax-supported bonds as provided in this
19 Act, and if either or both of such
20 propositions should carry, the governing
21 body of the authority shall be authorized to
22 levy and collect such bond tax and/or
23 maintenance tax as voted.

24 SUBCHAPTER B. AUTHORITY ADMINISTRATION

25 Revised Law

26 Sec. 5012.0051. COMMISSION; TERMS; ELECTION. (a) The
27 authority is governed by a commission composed of five elected
28 commissioners.

29 (b) Commissioners serve staggered two-year terms, with two
30 commissioners elected in each even-numbered year and three
31 commissioners elected in each odd-numbered year.

32 (c) The commission:

33 (1) is the authority's governing body; and

34 (2) has the powers conferred on navigation and canal
35 commissioners of navigation districts and the commissioners court
36 by the Water Code. (Acts 63rd Leg., R.S., Ch. 379, Secs. 2(2)
37 (part), 4 (part), 5 (part).)

38 Source Law

39 [Sec. 2]

40 (2) ["Commission" means the port
41 commission of the authority,] which shall be its
42 governing body.

43 Sec. 4. The management and control of the
44 authority is hereby vested in the commission, which
45 shall, after the first election held hereunder, be
46 composed of five commissioners, each elected to serve
47 for the term of two years, The commission shall
48 have and may exercise, in addition to the powers and
49 functions set out in this Act, the powers and authority
50 conferred upon navigation and canal commissioners of
51 navigation districts and the county commissioners

1 court by the Water Code, but
2 Sec. 5. [An election shall be held in the
3 authority . . . for the election of commissioners.]
4 . . . two commissioners shall be elected in even years
5 and three in odd years, in continuing sequence. . . .

6 Revisor's Note

7 (1) Section 4, Chapter 379, Acts of the 63rd
8 Legislature, Regular Session, 1973, provides that
9 "management and control of the authority is hereby
10 vested in" the commission. The revised law
11 substitutes "is governed by" for the quoted language
12 because in context the phrases have the same meaning
13 and the latter phrase is more consistent with modern
14 usage.

15 (2) Section 4, Chapter 379, Acts of the 63rd
16 Legislature, Regular Session, 1973, provides that
17 "after the first election held hereunder" the
18 commission is composed of five commissioners. The
19 revised law omits the quoted language as executed.

20 (3) Section 4, Chapter 379, Acts of the 63rd
21 Legislature, Regular Session, 1973, provides that the
22 commission "shall have and may exercise" certain
23 powers. Throughout this chapter, the revised law
24 substitutes "may" for "shall have and may exercise" or
25 other similar language because, in context, the
26 language is synonymous and "may" is more commonly
27 used.

28 (4) Section 4, Chapter 379, Acts of the 63rd
29 Legislature, Regular Session, 1973, gives the
30 commission certain powers that are "in addition to the
31 powers and functions set out in this Act." The revised
32 law omits the quoted language because the powers and
33 functions to which it refers are expressly set forth in
34 other sections of this chapter and a general reference
35 to them is unnecessary.

36 (5) Section 4, Chapter 379, Acts of the 63rd

1 Legislature, Regular Session, 1973, provides that in
2 the event of a conflict the act prevails over certain
3 provisions of general law. The revised law omits that
4 provision because it duplicates in substance Section
5 311.026(b), Government Code (Code Construction Act).
6 The omitted law reads:

7 Sec. 4. . . . in case of any
8 conflict, the provisions of this Act shall
9 prevail.

10 (6) Section 5, Chapter 379, Acts of the 63rd
11 Legislature, Regular Session, 1973, provides that
12 commissioners' elections are held on the first
13 Saturday in April of each year. The revised law omits
14 that provision as impliedly repealed by Chapter 14,
15 Acts of the 69th Legislature, 3rd Called Session,
16 1986, which amended Section 41.001, Election Code, to
17 prescribe certain uniform election dates. Section 37
18 of that act required a political subdivision that held
19 its general election of officers on a uniform election
20 date in April to hold that election on a uniform
21 election date in May or to choose a different uniform
22 election day on which to hold the election. The
23 omitted law reads:

24 Sec. 5. An election shall be held in
25 the authority on the first Saturday in April
26 of each year for the election of
27 commissioners. . . .

28 Revised Law

29 Sec. 5012.0052. QUALIFICATIONS FOR OFFICE. Each
30 commissioner must:
31 (1) be a resident of the authority;
32 (2) own taxable property in the authority; and
33 (3) be a qualified voter. (Acts 63rd Leg., R.S., Ch.
34 379, Sec. 4 (part).)

35 Source Law

36 Sec. 4. . . . [five commissioners] . . . each
37 of whom shall be a resident of the authority, own

1 taxable property within the boundaries of the
2 authority, and be a qualified elector. . . .

3 Revisor's Note

4 Section 4, Chapter 379, Acts of the 63rd
5 Legislature, Regular Session, 1973, provides that a
6 commissioner must be a qualified "elector." The
7 revised law substitutes "voter" for "elector" because
8 the former is the term used in the Election Code.

9 Revised Law

10 Sec. 5012.0053. NOTICE OF COMMISSIONERS' ELECTION. Notice
11 of a commissioner's election shall be given by publishing notice
12 once each week for two consecutive weeks in a newspaper with general
13 circulation in the authority, with the first publication being made
14 not earlier than the 60th day before the date of the election, and
15 not later than the 21st day before the date of the election. (Acts
16 63rd Leg., R.S., Ch. 379, Sec. 5 (part).)

17 Source Law

18 Sec. 5. . . .
19 Notice of the election shall be given by
20 publishing notice once each week for two consecutive
21 weeks in a newspaper with general circulation in the
22 district, the first such notice to be published not
23 more than 60 nor less than 21 days prior to the date of
24 the election. . . .

25 Revisor's Note

26 Section 5, Chapter 379, Acts of the 63rd
27 Legislature, Regular Session, 1973, refers to the
28 authority as a "district." For consistency throughout
29 this chapter, the revised law substitutes "authority"
30 for "district."

31 Revised Law

32 Sec. 5012.0054. ELECTION RESULTS. As soon as practicable
33 after each election held by the authority, the commission shall
34 declare the results of the election. (Acts 63rd Leg., R.S., Ch.
35 379, Sec. 6 (part).)

36 Source Law

37 Sec. 6. . . .
38 As soon as practicable after each election held
39 by the authority, the commission shall meet to canvass

1 the returns and declare the results of the election.
2 . . .

3 Revisor's Note

4 Section 6, Chapter 379, Acts of the 63rd
5 Legislature, Regular Session, 1973, requires the
6 commission to "canvass the returns" of each election
7 held by the authority. The revised law omits that
8 requirement because it duplicates in substance Section
9 67.002, Election Code, which requires the governing
10 body of a political subdivision that orders an
11 election to canvass the returns.

12 Revised Law

13 Sec. 5012.0055. COMMISSIONERS' OATH AND BOND. (a) Each
14 commissioner shall:

15 (1) take an oath of office that contains the
16 applicable provisions provided by law for members of the
17 commissioners court; and

18 (2) execute a bond for \$10,000 payable to the
19 authority, conditioned on the faithful performance of the
20 commissioner's duties as a commissioner.

21 (b) A commissioner's bond must be approved by the
22 commission. (Acts 63rd Leg., R.S., Ch. 379, Sec. 6 (part).)

23 Source Law

24 Sec. 6. Each commissioner shall take an oath of
25 office containing the applicable provisions provided
26 by law for members of the commissioners court and shall
27 execute a bond for \$10,000, payable to the authority,
28 conditioned on the faithful performance of his duties,
29 which bond shall be approved by the commission. . . .

30 Revised Law

31 Sec. 5012.0056. VOTING REQUIREMENT. The concurrence of a
32 majority of the commissioners present at a meeting where a quorum is
33 present is sufficient in any matter relating to authority business.
34 (Acts 63rd Leg., R.S., Ch. 379, Sec. 6 (part).)

35 Source Law

36 Sec. 6. . . . the concurrence of a majority of
37 those commissioners present at any meeting where a
38 quorum is present shall be sufficient in all matters
39 relating to the business of the authority. . . .

1 Revisor's Note

2 Section 6, Chapter 379, Acts of the 63rd
3 Legislature, Regular Session, 1973, provides that a
4 majority of the commission constitutes a quorum. The
5 revised law omits that provision because it duplicates
6 in substance Section 311.013, Government Code (Code
7 Construction Act), which provides that a quorum of a
8 public body is a majority of the number of members
9 fixed by statute. The omitted law reads:

10 Sec. 6. . . . A majority of the
11 commissioners shall constitute a quorum and
12

13 Revised Law

14 Sec. 5012.0057. OFFICERS. (a) As soon as practicable after
15 each election of commissioners, the commission shall elect one
16 commissioner presiding officer and one commissioner secretary.

17 (b) The presiding officer shall preside at commission
18 meetings.

19 (c) The secretary shall be responsible for maintaining and
20 preserving the minutes, records, and other documents of the
21 authority.

22 (d) The commission may select other officers and prescribe
23 their duties. (Acts 63rd Leg., R.S., Ch. 379, Sec. 6 (part).)

24 Source Law

25 Sec. 6. . . . As soon as practicable after each
26 election of commissioners the commission shall elect
27 one of its members chairman, who shall preside at
28 meetings of the commission, and one of its members
29 secretary, who shall be responsible for maintaining
30 and preserving the minutes, records, and other
31 documents of the authority. The commission may from
32 time to time select other officers and prescribe their
33 duties.

34 . . .

35 Revisor's Note

36 (1) Section 6, Chapter 379, Acts of the 63rd
37 Legislature, Regular Session, 1973, refers to the
38 "chairman" of the authority. The revised law
39 substitutes "presiding officer" for "chairman"

1 because, in context, the terms are synonymous and the
2 former is more commonly used and is gender neutral.

3 (2) Section 6, Chapter 379, Acts of the 63rd
4 Legislature, Regular Session, 1973, allows the
5 commission to select officers "from time to time." The
6 revised law omits the quoted language because the
7 power to take an action implies the power to do so at
8 any time.

9 Revised Law

10 Sec. 5012.0058. COMPENSATION OF COMMISSIONERS; EXPENSES.

11 (a) Unless otherwise provided, each commissioner is entitled to
12 receive a fee of not more than \$50 a day for each day of service
13 necessary to discharge the duties of a commissioner.

14 (b) Each commissioner is entitled to reimbursement for
15 actual expenses incurred on behalf of the authority and approved by
16 the commission. (Acts 63rd Leg., R.S., Ch. 379, Sec. 6 (part).)

17 Source Law

18 Sec. 6. . . .

19 Each commissioner shall be entitled to receive a
20 fee of not more than \$50 a day for each day of service
21 necessary to the discharge of his duties, unless
22 otherwise provided, and shall be entitled to
23 reimbursement of any expenses actually incurred on
24 behalf of the authority, upon approval by the
25 commission.

26 Revisor's Note

27 (End of Subchapter)

28 (1) Sections 4 and 5, Chapter 379, Acts of the
29 63rd Legislature, Regular Session, 1973, name the
30 authority's initial commissioners and describe their
31 terms of office. Section 5 also provides the manner in
32 which the first commissioners' elections will be held
33 under the act. Because the terms of office of the
34 initial commissioners have expired and the first
35 commissioners' elections have been held, the revised
36 law omits the provisions as executed. The omitted law
37 reads:

38 Sec. 4. . . . Until the first

1 election held hereunder, James M. Dubose,
2 Jerry Bourg, and R. J. Louviere, who are the
3 present commissioners, shall constitute the
4 commission. . . .

5 Sec. 5. . . . The three
6 commissioners named above shall continue to
7 serve until the election to be held in
8 April, 1981. At the election to be held on
9 April 5, 1980, two additional commissioners
10 shall be elected to serve for a term of two
11 years. Thereafter, on election day in
12 April, 1981, three commissioners shall be
13 elected and in subsequent years

14 (2) Section 5, Chapter 379, Acts of the 63rd
15 Legislature, Regular Session, 1973, states that a
16 commissioners' election is held in accordance with the
17 Election Code, except as provided by that act. The
18 revised law omits the phrase "except as otherwise
19 provided in this Act" because an exception to the
20 application of the Election Code would apply by its own
21 terms. The revised law omits the reference to the
22 Election Code because Section 1.002, Election Code,
23 provides that the Election Code applies to all
24 elections held in this state. The omitted law reads:

25 Sec. 5. . . . Conduct of the
26 election will be in accordance with the
27 provisions of the Texas Election Code
28 except as otherwise provided in this Act.
29 . . .

30 (3) Section 5, Chapter 379, Acts of the 63rd
31 Legislature, Regular Session, 1973, states that a
32 candidate for commissioner must file a ballot
33 application with the commission secretary that
34 includes the candidate's signature or the signatures
35 of at least 10 qualified voters and prescribes a
36 deadline for filing the application. The revised law
37 omits the requirement to file the application with the
38 commission secretary because it duplicates in
39 substance Sections 144.003 and 144.004, Election Code.
40 The revised law omits the signature requirement
41 because it is superseded by Section 141.031, Election
42 Code. In addition, the revised law omits the filing

1 deadline because it is superseded by Section 144.005,
2 Election Code. Section 1.002, Election Code, provides
3 that the Election Code applies to all elections held in
4 this state and supersedes conflicting statutes unless
5 the code or other statute expressly provides
6 otherwise. The omitted law reads:

7 Sec. 5. . . . Any candidate for the
8 office of commissioner shall file an
9 application to have his name printed on the
10 ballot with the secretary of the
11 commission, signed by the candidate or at
12 least 10 qualified voters, not less than 35
13 days prior to the election.

14 (4) Section 6, Chapter 379, Acts of the 63rd
15 Legislature, Regular Session, 1973, describes the
16 procedure for filling a commission vacancy. The
17 revised law omits the provision because it duplicates
18 in substance Section 62.066, Water Code. Throughout
19 this chapter, the revised law omits law that is
20 superseded by Chapter 62, Water Code, or that
21 duplicates law contained in that chapter. Chapter 62
22 applies to the authority under Section 3 of Chapter
23 379, revised in part in this chapter as Section
24 5012.0101. The omitted law reads:

25 Sec. 6. . . . A vacancy in the
26 office of commissioner shall be filled by
27 appointment by the commission for the
28 unexpired term.

29 . . .

30 SUBCHAPTER C. POWERS AND DUTIES

31 Revised Law

32 Sec. 5012.0101. GENERAL POWERS. The authority may
33 exercise:

34 (1) the rights, privileges, and functions provided by
35 this chapter; and

36 (2) all powers, rights, privileges, and functions
37 conferred by Chapters 60 and 62, Water Code. (Acts 63rd Leg., R.S.,
38 Ch. 379, Secs. 1 (part), 3 (part).)

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Source Law

Sec. 1. . . . [Such district shall be . . . a governmental agency] . . . with the authority to exercise the rights, privileges, and functions hereinafter specified, and

Sec. 3. The authority shall have and is hereby authorized to exercise all powers, rights, privileges, and functions conferred by Chapters 60 and 62 of the Water Code. . . .

Revised Law

Sec. 5012.0102. POWERS REGARDING PORTS, WATERWAYS, AND FACILITIES. The authority may:

(1) acquire, take over, construct, maintain, repair, operate, develop, and regulate wharves, docks, warehouses, grain elevators, ship repair facilities, belt railways, lands, and all other facilities or aids consistent with or necessary for the operation or development of ports, waterways, or maritime commerce inside or outside the authority's boundaries; and

(2) construct, extend, improve, repair, maintain, reconstruct, own, use, and operate any facility necessary or convenient to the exercise of such powers, rights, privileges, and functions granted by this chapter. (Acts 63rd Leg., R.S., Ch. 379, Sec. 3 (part).)

Source Law

Sec. 3. . . . Without limitation of the generality of the foregoing, the authority shall have and is hereby authorized to exercise the following powers, rights, privileges, and functions:

(a) the right, power, and authority to acquire, purchase, take over, construct, maintain, repair, operate, develop, and regulate wharves, docks, warehouses, grain elevators, ship repair facilities, belt railways, lands, and all other facilities or aids consistent with or necessary for the operation or development of ports, waterways, or maritime commerce within or without the boundaries of the authority, . . .

(b) to construct, extend, improve, repair, maintain, and reconstruct, or cause to be constructed, extended, improved, repaired, maintained, and reconstructed, and own, use, and operate any and all facilities of any kind necessary or convenient to the exercise of such powers, rights, privileges, and functions as are herein granted;

. . .

Revisor's Note

(1) Section 3, Chapter 379, Acts of the 63rd

1 Legislature, Regular Session, 1973, states that,
2 "[w]ithout limitation of the generality of the
3 foregoing," the authority has certain powers.
4 Throughout this chapter, the revised law omits the
5 quoted language or similar language because it is an
6 accepted general principle of statutory construction
7 that a grant of a power does not act as a limitation.

8 (2) Section 3(a), Chapter 379, Acts of the 63rd
9 Legislature, Regular Session, 1973, grants the
10 authority the power to "acquire" and "purchase"
11 certain property. The revised law omits the reference
12 to "purchase" because "purchase" is included in the
13 meaning of "acquire."

14 (3) Section 3(b), Chapter 379, Acts of the 63rd
15 Legislature, Regular Session, 1973, provides that the
16 authority may construct, extend, improve, repair,
17 maintain, and reconstruct, "or cause to be
18 constructed, extended, improved, repaired,
19 maintained, and reconstructed" certain facilities.
20 The revised law omits the quoted language as
21 unnecessary because the grant of a power implies the
22 authority to provide for the exercise of that power.
23 In addition, the quoted language duplicates in
24 substance Section 62.121, Water Code, which authorizes
25 the authority to contract with any person to exercise
26 any authority power.

27 Revised Law

28 Sec. 5012.0103. BYLAWS AND RULES. The authority may adopt
29 bylaws and rules for the management and regulation of its affairs.
30 (Acts 63rd Leg., R.S., Ch. 379, Sec. 3 (part).)

31 Source Law

32 Sec. 3. . . . the authority shall have and is
33 hereby authorized to exercise the following powers,
34 rights, privileges, and functions:

35 . . .
36 (e) to make bylaws, rules, and regulations for

1 the management and regulation of its affairs;
2 . . .

3 Revisor's Note

4 Section 3(e), Chapter 379, Acts of the 63rd
5 Legislature, Regular Session, 1973, authorizes the
6 authority to "make bylaws, rules, and regulations."
7 The revised law substitutes "adopt" for "make"
8 because, in context, the terms are synonymous and
9 "adopt" is more commonly used. The revised law also
10 omits the reference to "regulations" because under
11 Section 311.005(5), Government Code (Code
12 Construction Act), a rule is defined to include a
13 regulation.

14 Revised Law

15 Sec. 5012.0104. GIFT OR PURCHASE OF PROPERTY. The
16 authority by gift or purchase may acquire any property or any
17 interest in property that is:

- 18 (1) inside or outside the authority's boundaries; and
19 (2) necessary or convenient to exercising a power,
20 right, privilege, or function conferred on the authority by this
21 chapter. (Acts 63rd Leg., R.S., Ch. 379, Sec. 3 (part).)

22 Source Law

23 Sec. 3. . . . the authority shall have and is
24 hereby authorized to exercise the following powers,
25 rights, privileges, and functions:

- 26 . . .
27 (i) to acquire by gift or purchase any and all
28 properties of any kind, or any interest therein,
29 within or outside of the boundaries of the authority
30 necessary to the exercise of the powers, rights,
31 privileges, and functions conferred upon it by this
32 Act, and

33 Revised Law

34 Sec. 5012.0105. EMINENT DOMAIN. (a) To exercise a power
35 provided by law, the authority may exercise the power of eminent
36 domain to acquire any property and any interest in property inside
37 the authority's boundaries. The authority must exercise the power
38 of eminent domain in the manner provided by Chapter 21, Property
39 Code.

1 (b) The authority is a municipal corporation for the
2 purposes of Section 21.021, Property Code.

3 (c) The authority is not required to give bond for appeal or
4 bond for costs in any judicial proceeding related to the
5 authority's exercise of eminent domain.

6 (d) The authority's authority to exercise the power of
7 eminent domain expired on September 1, 2013, unless the authority
8 submitted a letter to the comptroller in accordance with Section
9 2206.101(b), Government Code, not later than December 31, 2012.
10 (Acts 63rd Leg., R.S., Ch. 379, Secs. 3 (part), 11; New.)

11 Source Law

12 Sec. 3. . . . the authority shall have and is
13 hereby authorized to exercise the following powers,
14 rights, privileges, and functions:

15 . . .
16 (i) [to acquire . . . any and all properties of
17 any kind, or any interest therein,] . . . by
18 condemnation within the boundaries of the authority in
19 the manner provided by general law for condemnation by
20 counties, provided that the authority shall not be
21 required to give bond for appeal or bond for costs in
22 any judicial proceedings; and
23 . . .

24 Sec. 11. For the purpose of carrying out any
25 power conferred by law on the authority, the authority
26 shall have the right to acquire real property and any
27 interest therein by condemnation in the manner
28 provided by Title 52, Revised Civil Statutes of Texas,
29 1925, as amended, relating to eminent domain. The
30 authority is hereby declared to be a municipal
31 corporation within the meaning of Article 3268 of said
32 Title 52. The amount of and character of property or
33 interest therein thus to be acquired shall be
34 determined by the commissioners.

35 Revisor's Note

36 (1) Sections 3(i) and 11, Chapter 379, Acts of
37 the 63rd Legislature, Regular Session, 1973, provide
38 that the authority may acquire certain property "by
39 condemnation." The revised law substitutes for the
40 quoted language "may exercise the power of eminent
41 domain" because the phrases have the same meaning and
42 the latter phrase is consistent with modern usage in
43 laws relating to eminent domain.

44 (2) Section 3(i), Chapter 379, Acts of the 63rd

1 Legislature, Regular Session, 1973, provides that the
2 authority must exercise the power of eminent domain in
3 the manner provided by "general law for condemnation
4 by counties." The revised law substitutes for the
5 quoted language a reference to Chapter 21, Property
6 Code, because that is the general law governing
7 eminent domain for governmental entities, including
8 counties.

9 (3) Section 11, Chapter 379, Acts of the 63rd
10 Legislature, Regular Session, 1973, refers to Title
11 52, Revised Statutes. The relevant provisions of
12 Title 52 were codified as Chapter 21, Property Code, by
13 Chapter 576, Acts of the 68th Legislature, Regular
14 Session, 1983. The revised law is drafted
15 accordingly.

16 (4) Section 11, Chapter 379, Acts of the 63rd
17 Legislature, Regular Session, 1973, refers to Article
18 3268, Revised Statutes. The applicable part of that
19 statute was codified as Section 21.021, Property Code,
20 by Chapter 576, Acts of the 68th Legislature, Regular
21 Session, 1983. The revised law is drafted
22 accordingly.

23 (5) Sections 3 and 11, Chapter 379, Acts of the
24 63rd Legislature, Regular Session, 1973, provided the
25 authority limited eminent domain authority. Section
26 2206.101, Government Code, required an entity with
27 eminent domain authority to submit a letter with
28 certain information to the comptroller not later than
29 December 31, 2012, to prevent the entity's eminent
30 domain authority from expiring on September 1, 2013.
31 To avoid the appearance that this revision recognizes
32 authority that the authority may not possess at the
33 time of the revision, the revised law includes a
34 provision setting out the requirements of Section

1 2206.101, Government Code.

2 Revised Law

3 Sec. 5012.0106. LEASE OF AUTHORITY FACILITIES. A lease
4 under Section 60.101, Water Code, may contain any provision the
5 commission determines is advantageous to the authority, including a
6 provision for:

7 (1) the sale of a leased property at the termination of
8 the lease; and

9 (2) the management and operation of a leased property
10 by the lessee. (Acts 63rd Leg., R.S., Ch. 379, Sec. 3 (part).)

11 Source Law

12 Sec. 3. . . . the authority shall have and is
13 hereby authorized to exercise the following powers,
14 rights, privileges, and functions:

15 . . .
16 (j) [to lease . . . any facilities . . . as
17 provided by Section 60.101, Water Code,] said lease to
18 contain such terms and provisions (including, but not
19 by way of limitation, provisions to sell the leased
20 properties at the termination of said lease and
21 provisions relating to management and operation of
22 said properties by the lessee thereof) as the
23 commission may determine to be advantageous to the
24 authority. . . .

25 Revisor's Note

26 (1) Section 3(j), Chapter 379, Acts of the 63rd
27 Legislature, Regular Session, 1973, provides that the
28 authority may lease an authority facility as provided
29 by Section 60.101, Water Code. The revised law omits
30 the provision because it duplicates in substance
31 Section 60.101, Water Code. Throughout this chapter,
32 the revised law omits law that is superseded by Chapter
33 60, Water Code, or that duplicates law contained in
34 that chapter. Chapter 60, Water Code, applies to the
35 authority under Section 3 of Chapter 379, revised in
36 part in this chapter as Section 5012.0101. The omitted
37 law reads:

38 Sec. 3. . . . [the authority shall
39 have and is hereby authorized to exercise
40 the following powers, rights, privileges,
41 and functions:]
42 . . .

1 (j) to lease to any person, firm,
2 corporation, partnership, political
3 subdivision of the State of Texas, or agency
4 of the United States of America, all or any
5 part of any facilities heretofore or
6 hereafter constructed or otherwise acquired
7 by it, as provided by Section 60.101, Water
8 Code,

9 (2) Section 3(j), Chapter 379, Acts of the 63rd
10 Legislature, Regular Session, 1973, refers to "terms
11 and provisions." The revised law omits the reference
12 to "terms" because "terms" is included in the meaning
13 of "provisions."

14 (3) Section 3(j), Chapter 379, Acts of the 63rd
15 Legislature, Regular Session, 1973, refers to lease
16 provisions, "including, but not by way of limitation,"
17 certain provisions advantageous to the authority. The
18 revised law omits "but not by way of limitation"
19 because Section 311.005(13), Government Code (Code
20 Construction Act), applicable to the revised law,
21 provides that "including" is a term of enlargement and
22 not of limitation and does not create a presumption
23 that components not expressed are excluded.

24 Revised Law

25 Sec. 5012.0107. SALE OF SURPLUS PROPERTY. The commission
26 may order authority property sold as provided in Section 60.101,
27 Water Code, if the property is not considered reasonably required
28 to carry out the authority's plans. (Acts 63rd Leg., R.S., Ch. 379,
29 Sec. 3 (part).)

30 Source Law

31 Sec. 3. . . . the authority shall have and is
32 hereby authorized to exercise the following powers,
33 rights, privileges, and functions:

34 . . .
35 (j) . . . Any property or land owned by the
36 authority which may be found not to be reasonably
37 required to carry out the plans of the authority may be
38 sold by order of the commission as provided in Section
39 60.101, Water Code.

40 Revisor's Note

41 Section 3, Chapter 379, Acts of the 63rd
42 Legislature, Regular Session, 1973, refers to

1 "property or land" owned by the authority. The revised
2 law omits the reference to "land" because under
3 Section 311.005(4), Government Code (Code
4 Construction Act), the definition of "property"
5 includes real property, and "land" is included in the
6 meaning of real property.

7 Revised Law

8 Sec. 5012.0108. GENERAL AUTHORITY TO MAKE CONTRACTS AND
9 EXECUTE INSTRUMENTS. The authority may make a contract or execute
10 an instrument necessary or convenient to exercising a power, right,
11 privilege, or function conferred on the authority by this chapter.
12 (Acts 63rd Leg., R.S., Ch. 379, Sec. 3 (part).)

13 Source Law

14 Sec. 3. . . . the authority shall have and is
15 hereby authorized to exercise the following powers,
16 rights, privileges, and functions:

17 . . .
18 (g) to make contracts and execute instruments
19 necessary or convenient to the exercise of the powers,
20 rights, privileges, and functions conferred upon it by
21 this Act;

22 . . .

23 Revised Law

24 Sec. 5012.0109. COMPETITIVE BIDDING FOR CERTAIN CONTRACTS.

25 (a) Before the commission enters into a contract for the
26 expenditure of an amount of \$25,000 or more, the authority shall
27 submit the proposed contract for competitive bids as provided by
28 this section.

29 (b) The commission shall publish notice of the time and
30 place for the opening of sealed bids on a contract described by
31 Subsection (a) in one or more newspapers of general circulation in
32 this state, one of which must be a newspaper published in Jefferson
33 County. The notice must be published once a week for two
34 consecutive weeks, with the first publication being made not later
35 than the 14th day before the date set for the opening of bids.

36 (c) The commission may reject any bid submitted under this
37 section, but if the commission accepts a bid, the bid must be the
38 lowest and best bid received.

1 (d) This section does not apply to:

2 (1) improvements performed by the United States;

3 (2) emergencies that require immediate action to
4 protect persons or property;

5 (3) necessary emergency repairs to authority
6 property; or

7 (4) contracts for personal or professional services or
8 work done by the authority and paid for by the day as the work
9 progresses. (Acts 63rd Leg., R.S., Ch. 379, Sec. 9.)

10 Source Law

11 Sec. 9. Before the commission enters into a
12 contract requiring the expenditure of \$25,000 or more,
13 it shall submit the proposed contract for competitive
14 bids. Notice of the time and place for the opening of
15 sealed bids on such contract shall be published in one
16 or more newspapers of general circulation in the
17 state, one of which shall be a newspaper published in
18 Jefferson County, Texas. Such notice shall be
19 published once a week for two consecutive weeks, with
20 the first publication being made at least 14 days
21 before the date set for the opening of bids. The
22 commission may reject any and all bids, but if a bid is
23 accepted it shall be the lowest and best bid received.

24 The provisions of this section do not apply to:

25 (1) improvements carried out and performed
26 by the United States;

27 (2) calamities or emergencies which make
28 it necessary to act at once to protect persons or
29 property;

30 (3) necessary emergency repairs to the
31 property of the authority; or

32 (4) contracts for personal or professional
33 services or work done by the authority and paid for by
34 the day as the work progresses.

35 Revisor's Note

36 (1) Section 9, Chapter 379, Acts of the 63rd
37 Legislature, Regular Session, 1973, refers to
38 improvements "carried out and performed" by the United
39 States. The revised law omits "carried out" because
40 "carried out" is included in the meaning of
41 "performed."

42 (2) Section 9, Chapter 379, Acts of the 63rd
43 Legislature, Regular Session, 1973, refers to
44 "calamities or emergencies." The revised law omits
45 "calamities" because "calamities" is included in the

1 meaning of "emergencies."

2 Revised Law

3 Sec. 5012.0110. OFFICERS, AGENTS, AND EMPLOYEES. The
4 authority may employ, prescribe the duties of, and set the
5 compensation of officers, agents, and employees. (Acts 63rd Leg.,
6 R.S., Ch. 379, Sec. 3 (part).)

7 Source Law

8 Sec. 3. . . . the authority shall have and is
9 hereby authorized to exercise the following powers,
10 rights, privileges, and functions:

11 . . .
12 (f) to employ officers, agents, and employees,
13 to prescribe their duties, and to fix their
14 compensation;

15 . . .

16 Revisor's Note

17 Section 3(f), Chapter 379, Acts of the 63rd
18 Legislature, Regular Session, 1973, provides that the
19 authority has the authority to "fix" the compensation
20 of officers, agents, and employees. Throughout this
21 chapter, in this and similar contexts, the revised law
22 substitutes "set" for "fix" because the terms are
23 synonymous in these contexts and "set" is more
24 commonly used.

25 Revised Law

26 Sec. 5012.0111. SEAL. The authority may adopt and use a
27 corporate seal. (Acts 63rd Leg., R.S., Ch. 379, Sec. 3 (part).)

28 Source Law

29 Sec. 3. . . . the authority shall have and is
30 hereby authorized to exercise the following powers,
31 rights, privileges, and functions:

32 . . .
33 (d) to adopt, use, and alter a corporate seal;

34 . . .

35 Revisor's Note

36 Section 3(d), Chapter 379, Acts of the 63rd
37 Legislature, Regular Session, 1973, authorizes the
38 authority to "adopt" and "alter" a corporate seal. The
39 revised law omits the reference to altering a seal
40 because the authority to adopt a seal includes the

1 authority to alter it.

2 Revised Law

3 Sec. 5012.0112. AUTHORITY TO SUE AND BE SUED. The authority
4 may sue and be sued in its corporate name. (Acts 63rd Leg., R.S.,
5 Ch. 379, Sec. 3 (part).)

6 Source Law

7 Sec. 3. . . . the authority shall have and is
8 hereby authorized to exercise the following powers,
9 rights, privileges, and functions:

- 10 . . .
- 11 (c) to sue and be sued in its corporate name;
- 12 . . .

13 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

14 Revised Law

15 Sec. 5012.0151. MAINTENANCE AND OPERATIONS TAX. The
16 commission may impose an annual tax for the maintenance and
17 operation of the authority and the authority's improvements at a
18 rate not to exceed 20 cents for each \$100 valuation of taxable
19 property in the authority. (Acts 63rd Leg., R.S., Ch. 379, Sec. 10
20 (part).)

21 Source Law

22 Sec. 10. With the approval of the electors of
23 the authority, the commission may levy and have
24 assessed and collected for the maintenance, operation,
25 and upkeep of the authority and its improvements an
26 annual tax of not more than 20 cents on the \$100
27 valuation of all taxable property in the authority;
28

29 Revisor's Note

30 (1) Section 10, Chapter 379, Acts of the 63rd
31 Legislature, Regular Session, 1973, authorizes the
32 commission to levy, assess, and collect a maintenance
33 and operations tax if the tax is approved by the
34 authority's voters. The revised law codifies the
35 provisions authorizing the commission to levy, assess,
36 and collect the tax but omits as executed the
37 provisions relating to the election to approve the tax
38 because the election has been held and the levy,
39 assessment, and collection of the tax has been

1 approved.

2 (2) Section 10, Chapter 379, Acts of the 63rd
3 Legislature, Regular Session, 1973, provides that the
4 commission "may levy and have assessed and collected"
5 a maintenance and operations tax. The revised law
6 substitutes "impose" for the quoted language because
7 "impose" is the term generally used in Title 1, Tax
8 Code, and includes the levy, assessment, and
9 collection of a maintenance and operations tax.

10 (3) Section 10, Chapter 379, Acts of the 63rd
11 Legislature, Regular Session, 1973, refers to a tax
12 for the "maintenance, operation, and upkeep" of the
13 authority. The revised law omits "upkeep" because
14 "upkeep" is included within the meaning of
15 "maintenance."

16 (4) Section 10, Chapter 379, Acts of the 63rd
17 Legislature, Regular Session, 1973, as amended by
18 Chapter 812, Acts of the 66th Legislature, Regular
19 Session, 1979, contains transition language regarding
20 the commission's continuing authority to impose a
21 maintenance and operations tax in the authority that
22 was authorized by the authority's voters before the
23 passage of the 1979 act. The revised law omits the
24 language as executed. The omitted law reads:

25 Sec. 10. . . . provided that the
26 present maintenance tax of 20 cents on the
27 \$100 valuation on all taxable property in
28 the authority as previously voted in the
29 authority shall remain in full force and
30 effect and may be assessed, levied, and
31 collected.

32 Revised Law

33 Sec. 5012.0152. TAX ASSESSOR AND COLLECTOR. (a) The
34 commission shall appoint a tax assessor and collector.

35 (b) The tax assessor and collector shall execute a bond in
36 an amount set by the commission that is:

37 (1) at least twice the average daily balance of the

1 authority in its depository for the preceding year; and

2 (2) not more than the estimated amount of revenues of
3 the authority for any year. (Acts 63rd Leg., R.S., Ch. 379, Sec.
4 7.)

5 Source Law

6 Sec. 7. The commission shall appoint a tax
7 assessor and collector, who shall execute a bond in an
8 amount fixed by the commission, which amount shall be
9 not less than twice the average daily balance of the
10 authority in its depository for the preceding year nor
11 more than the estimated amount of revenues of the
12 authority for any one year.

13 Revised Law

14 Sec. 5012.0153. AUTHORITY TO BORROW MONEY, ACCEPT GRANTS,
15 AND ISSUE ASSOCIATED REVENUE BONDS. The authority may:

16 (1) borrow money for the authority's corporate
17 purposes consistent with the constitution, this chapter, and
18 Chapters 60-63, Water Code;

19 (2) borrow money or accept a grant from the United
20 States or from a corporation or agency created or designated by the
21 United States and, in connection with the loan or grant, enter into
22 any agreement the United States or the corporation or agency may
23 require; and

24 (3) make and issue bonds for money borrowed, in the
25 manner provided by this chapter. (Acts 63rd Leg., R.S., Ch. 379,
26 Sec. 3 (part).)

27 Source Law

28 Sec. 3. . . . the authority shall have and is
29 hereby authorized to exercise the following powers,
30 rights, privileges, and functions:

31 . . .
32 (h) to borrow money for its corporate purposes
33 consistent with the constitution, this Act, and
34 Chapters 60-63, Water Code, and without limitation of
35 the generality of the foregoing, to borrow money and
36 accept grants from the United States of America, or
37 from any corporation or agency created or designated
38 by the United States of America, and in connection with
39 any such loan or grant to enter into such agreements as
40 the United States of America or such corporations or
41 agencies may require, and to make and issue its
42 negotiable bonds for money borrowed in the manner and
43 to the extent provided herein. . . .

1 Revisor's Note

2 (1) Section 3(h), Chapter 379, Acts of the 63rd
3 Legislature, Regular Session, 1973, authorizes the
4 authority to issue "negotiable" bonds. The revised
5 law omits the reference to "negotiable" bonds because
6 Section 1201.041, Government Code, provides that a
7 public security is a negotiable instrument.
8 Throughout this chapter, the revised law omits law
9 that is superseded by Chapter 1201, Government Code,
10 or that duplicates law contained in that chapter.
11 Chapter 1201, Government Code, applies to authority
12 bonds under Sections 1201.002 and 1201.003, Government
13 Code.

14 (2) Section 3(h), Chapter 379, Acts of the 63rd
15 Legislature, Regular Session, 1973, provides that the
16 act does not authorize the issuance of authority bonds
17 payable from taxes unless the issuance is first
18 submitted to the qualified voters of the authority and
19 a majority of those voters approve of the issuance.
20 The revised law omits the provision as unnecessary
21 because no other provision of the act purports to
22 authorize the authority to issue bonds payable from
23 taxes without voter approval. In addition, the
24 provision duplicates in substance Section 60.332,
25 Water Code, which requires bonds secured by taxes to be
26 authorized at an election held for that purpose. The
27 omitted law reads:

28 Sec. 3. . . .
29 (h) . . . Nothing in this Act shall
30 authorize the issuance of any bonds of the
31 authority payable from taxation, unless
32 such proposition shall first be submitted
33 to the qualified voters of the authority and
34 the proposition adopted by a majority vote
35 of those voting at the election;
36 . . .

37 Revised Law

38 Sec. 5012.0154. AUTHORITY TO BORROW MONEY FOR CURRENT

1 EXPENSES; EVIDENCE OF OBLIGATION. (a) The authority may:
2 (1) borrow money for current expenses; and
3 (2) evidence the borrowed money by warrants.
4 (b) The total amount of the warrants may not exceed the
5 anticipated revenue. (Acts 63rd Leg., R.S., Ch. 379, Sec. 3
6 (part).)

7 Source Law

8 Sec. 3. . . . the authority shall have and is
9 hereby authorized to exercise the following powers,
10 rights, privileges, and functions:

11 (a) . . . the authority shall have the right to
12 borrow funds for current expenses and to evidence the
13 same by warrants, but such warrants shall never exceed
14 the anticipated revenues and

15 Revisor's Note

16 (1) Section 3(a), Chapter 379, Acts of the 63rd
17 Legislature, Regular Session, 1973, refers to the
18 authority's right to borrow "funds." The revised law
19 substitutes "money" for "funds" because, in context,
20 the meaning is the same and "money" is the more
21 commonly used term.

22 (2) Section 3(a), Chapter 379, Acts of the 63rd
23 Legislature, Regular Session, 1973, provides that the
24 authority's warrants may bear interest at a rate that
25 does not exceed the maximum rate allowed under the
26 constitution and general laws of this state. The
27 revised law omits the provision as unnecessary. To the
28 extent the constitution or general laws of this state
29 provide a maximum interest rate for the authority's
30 warrants, those laws apply to the authority by their
31 own terms. The omitted law reads:

32 Sec. 3. . . .
33 (a) . . . [such warrants] . . . may
34 bear interest not exceeding the maximum
35 rate permitted by the constitution and
36 general laws of the State of Texas;
37

1 SUBCHAPTER E. BONDS

2 Revised Law

3 Sec. 5012.0201. AUTHORITY TO ISSUE BONDS; ELECTION. (a)

4 The authority may issue bonds for any corporate purpose.

5 (b) The authority may issue bonds for a purpose described by
6 Section 5012.0102(1) or to acquire necessary or proper lands,
7 rights of way, extension or improvements of belt railway lines, or
8 construction or improvements of wharves, docks, ship repair
9 facilities, or other facilities or aids to navigation.

10 (c) The authority may secure bonds issued under Subsection
11 (b) by liens on properties acquired, constructed, or improved and
12 pledge available revenues as additional security.

13 (d) An election to approve the issuance of bonds payable
14 from taxes must be held in the manner provided for bond elections
15 under Chapter 54, Water Code. (Acts 63rd Leg., R.S., Ch. 379, Secs.
16 3 (part), 8 (part).)

17 Source Law

18 Sec. 3. . . . the authority shall have and is
19 hereby authorized to exercise the following rights,
20 powers, privileges, and functions:

21 (a) . . . in addition to the power to issue
22 bonds for the purposes above enumerated, and for the
23 purpose of acquiring necessary or proper lands,
24 rights-of-way, extension or improvements of belt
25 railway lines, or construction or improvements of
26 wharves, docks, ship repair facilities, or other
27 facilities or aids to navigation, and to secure such
28 obligations by liens on properties acquired,
29 constructed, or improved, and pledge available
30 revenues as additional security, and

31 Sec. 8. The authority shall have power and is
32 hereby authorized to issue, from time to time, bonds as
33 herein authorized for any of its corporate purposes.

34 . . .
35 (c) . . . [provided that no bonds payable from
36 taxes may be issued unless the same have been approved
37 by a majority of the qualified voters in the authority
38 voting at an election called and held for that purpose;
39 and] each such bond election shall be called and held
40 as prescribed for bond elections in Chapter 54, Water
41 Code;

42 Revisor's Note

43 (1) Section 3(a), Chapter 379, Acts of the 63rd
44 Legislature, Regular Session, 1973, authorizes the
45 authority to issue bonds "in addition to" other powers

1 the authority has in that section. The revised law
2 omits the quoted language as unnecessary because, as a
3 principle of statutory construction, the various
4 provisions granting power to the authority must be
5 read cumulatively.

6 (2) Section 8, Chapter 379, Acts of the 63rd
7 Legislature, Regular Session, 1973, permits the
8 authority to issue bonds "from time to time." The
9 revised law omits the quoted language for the reason
10 stated in Revisor's Note (2) to Section 5012.0057.

11 (3) Section 8, Chapter 379, Acts of the 63rd
12 Legislature, Regular Session, 1973, permits the
13 authority to issue bonds "as herein authorized." The
14 revised law omits the quoted language because, to the
15 extent that other provisions of that act govern the
16 issuance of bonds by the authority, those provisions
17 apply to the issuance of authority bonds without an
18 express reference to those provisions in this section.

19 (4) Section 8(c), Chapter 379, Acts of the 63rd
20 Legislature, Regular Session, 1973, provides that
21 authority bonds payable by taxes must be approved by
22 the authority's voters at an election held for that
23 purpose. The revised law omits that provision for the
24 reason stated in Revisor's Note (2) to Section
25 5012.0153. The omitted law reads:

26 Sec. 8. . . .
27 (c) . . . provided that no bonds
28 payable from taxes may be issued unless the
29 same have been approved by a majority of the
30 qualified voters in the authority voting at
31 an election called and held for that
32 purpose; and

33 (5) Section 8(c), Chapter 379, Acts of the 63rd
34 Legislature, Regular Session, 1973, provides that a
35 bond election must be "called and held" in a specified
36 manner. The revised law omits the reference to calling
37 an election because, in context, calling an election

1 is included in the meaning of "holding" an election.
2 Under Chapter 3, Election Code, all elections must be
3 ordered (called) before they may be held.

4 Revised Law

5 Sec. 5012.0202. FORM OF BONDS. Authority bonds must be:

6 (1) issued in the authority's name; and

7 (2) signed by the commission's presiding officer.

8 (Acts 63rd Leg., R.S., Ch. 379, Sec. 8 (part).)

9 Source Law

10 Sec. 8. . . . [All bonds issued by the authority
11 pursuant to the provisions of this Act] All
12 such bonds shall be issued in the name of the authority
13 and shall be signed by the chairman of the commission,
14

15 Revisor's Note

16 (1) Section 8, Chapter 379, Acts of the 63rd
17 Legislature, Regular Session, 1973, refers to the
18 "chairman" of the commission. The revised law
19 substitutes "presiding officer" for "chairman" for the
20 reason stated in Revisor's Note (1) to Section
21 5012.0057.

22 (2) Section 8, Chapter 379, Acts of the 63rd
23 Legislature, Regular Session, 1973, provides that
24 authority bonds must be authorized by commission
25 resolution and must be attested by the secretary. The
26 revised law omits those provisions because they
27 duplicate in substance Section 60.333, Water Code. The
28 omitted law reads:

29 Sec. 8. . . . All such bonds shall
30 be authorized by resolution or resolutions
31 of the commission, and [All such
32 bonds shall be] . . . attested by the
33 secretary, and

34 (3) Section 8, Chapter 379, Acts of the 63rd
35 Legislature, Regular Session, 1973, provides that
36 authority bonds must bear the seal of the district and
37 authorizes facsimile signatures and seals. The
38 revised law omits those provisions as unnecessary.

1 The requirement that the bonds bear the seal of the
2 authority was impliedly repealed by Section 3, Bond
3 Procedures Act of 1981 (Article 717k-6, Vernon's Texas
4 Civil Statutes) (revised in relevant part in 1999 as
5 Section 1201.026(a), Government Code), which provides
6 that bonds may be signed with or without a seal. The
7 authorization for the use of printed signatures
8 duplicates Section 1201.026(a), Government Code,
9 which also provides that bonds and interest coupons
10 may be executed with manual or facsimile signatures.
11 The omitted law reads:

12 Sec. 8. . . . [All such bonds shall]
13 . . . have the seal of the authority
14 impressed thereon, provided that such
15 signatures and seal may be by facsimile if
16 the commission so directs. . . .

17 Revised Law

18 Sec. 5012.0203. TERMS OF ISSUANCE. Authority bonds may be:
19 (1) sold for cash;
20 (2) issued on terms the commission determines in
21 exchange for any property, or any interest in property, that the
22 commission considers necessary or convenient for the corporate
23 purpose for which the bonds are issued; or
24 (3) issued in exchange for like principal amounts of
25 other obligations of the authority, whether matured or unmatured.
26 (Acts 63rd Leg., R.S., Ch. 379, Sec. 8 (part).)

27 Source Law

28 Sec. 8. . . . Such bonds may either be (1) sold
29 for cash, at public or private sale, at such price or
30 prices as the commission shall determine, . . . (2)
31 issued on such terms as the commission shall determine
32 in exchange for property of any kind, real, personal,
33 or mixed or any interest therein which the commission
34 shall deem necessary or convenient for any such
35 corporate purposes; or (3) issued in exchange for like
36 principal amounts of other obligations of the
37 authority, matured or unmatured. . . .

38 Revisor's Note

39 (1) Section 8, Chapter 379, Acts of the 63rd
40 Legislature, Regular Session, 1973, provides that

1 authority bonds or notes may be sold "at public or
2 private sale." The revised law omits the quoted
3 language because it duplicates in substance Section
4 1201.022(a)(3)(A), Government Code.

5 (2) Section 8, Chapter 379, Acts of the 63rd
6 Legislature, Regular Session, 1973, provides that
7 authority bonds or notes may be sold "at such price or
8 prices as the commission shall determine." The
9 revised law omits the quoted language because it is
10 superseded by general law. Section 1201.022,
11 Government Code, as amended in 2001, provides that an
12 issuer may sell public securities "under the terms
13 determined by the governing body of the issuer to be in
14 the issuer's best interests."

15 (3) Section 8, Chapter 379, Acts of the 63rd
16 Legislature, Regular Session, 1973, refers to
17 "property of any kind, real, personal, or mixed." The
18 revised law omits the reference to "real, personal, or
19 mixed" because under Section 311.005(4), Government
20 Code (Code Construction Act), "property" includes both
21 real and personal property, and "mixed" property is
22 property consisting of both real and personal
23 property.

24 Revised Law

25 Sec. 5012.0204. DEPOSIT OF PROCEEDS. The proceeds of sale
26 of authority bonds shall be deposited in one or more banks or trust
27 companies, and shall be paid out according to the terms on which the
28 authority and the purchasers of the bonds agree. (Acts 63rd Leg.,
29 R.S., Ch. 379, Sec. 8 (part).)

30 Source Law

31 Sec. 8. . . . The proceeds of sale of such bonds
32 shall be deposited in such bank or banks or trust
33 company or trust companies, and shall be paid out
34 pursuant to such terms and conditions, as may be agreed
35 on between the authority and the purchasers of such
36 bonds. . . .

1 Revisor's Note

2 Section 8, Chapter 379, Acts of the 63rd
3 Legislature, Regular Session, 1973, refers to the
4 "terms and conditions" under which proceeds of the
5 sale of authority bonds shall be paid out. The revised
6 law omits "conditions" because the meaning of
7 "conditions" is included in the meaning of "terms."

8 Revised Law

9 Sec. 5012.0205. RESOLUTION PROVISIONS. (a) A resolution
10 authorizing bonds may contain provisions approved by the commission
11 that are not inconsistent with this chapter, including provisions:

12 (1) reserving the right to redeem the bonds or
13 requiring the redemption of the bonds, at a time, in an amount, and
14 at a price, not to exceed 105 percent of the principal amount of the
15 bonds, plus accrued interest;

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

18 (3) securing the payment of the principal of and
19 interest on the bonds and of the sinking fund or reserve fund
20 payments associated with the bonds by pledging:

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

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

27 (4) securing the payment of the principal of and
28 interest on the bonds by pledging taxes;

29 (5) prescribing the purposes to which the bonds or any
30 bonds subsequently issued, or the proceeds of the bonds, may be
31 applied;

32 (6) agreeing to set and collect rates and charges
33 sufficient to produce revenue adequate to:

34 (A) pay all expenses necessary to the operation,

1 maintenance, and replacement of and additions to the authority's
2 property;

3 (B) pay the principal of, and the interest and
4 premium, if any, on bonds issued under this chapter when the bonds
5 become due and payable;

6 (C) pay all sinking fund or reserve fund payments
7 for those bonds out of those revenues as and when they become due
8 and payable;

9 (D) fulfill the terms of any agreements made with
10 the holders of the bonds or with any person on their behalf; and

11 (E) discharge all other lawful obligations of the
12 authority as and when the obligations become due;

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

17 (8) regarding the construction, extension,
18 improvement, reconstruction, operation, maintenance, and repair of
19 the authority's properties and the carrying of insurance on all or
20 any part of those properties covering loss, damage, or loss of use
21 and occupancy resulting from specified risks;

22 (9) setting the procedure by which the authority may
23 change the terms of a contract with the bondholders, the amount of
24 bonds the holders of which must consent to that change, and the
25 manner in which the consent may be given; and

26 (10) providing for the execution and delivery by the
27 authority to a bank or trust company authorized by law to accept
28 trusts, or to the United States or any officer of the United States,
29 of indentures and agreements for the benefit of the bondholders
30 setting forth any of the agreements authorized by this chapter to be
31 made with or for the benefit of the bondholders and any other
32 provisions that are customary in such indentures or agreements.

33 (b) A provision authorized by this section that is contained
34 in a bond resolution is part of the contract between the authority

1 and the bondholders. (Acts 63rd Leg., R.S., Ch. 379, Sec. 8 (part).)

2 Source Law

3 Sec. 8. . . . Any resolution or resolutions
4 authorizing any bonds may contain provisions, which
5 shall be part of the contract between the authority and
6 the holders thereof from time to time:

7 (a) reserving the right to redeem such bonds or
8 requiring the redemption of such bonds, at such time or
9 times, in such amounts and at such prices, not
10 exceeding 105 percent of the principal amount thereof,
11 plus accrued interest, as may be provided;

12 (b) providing for the setting aside of sinking
13 funds or reserve funds and the regulation and
14 disposition thereof;

15 (c) pledging to secure the payment of the
16 principal of and interest on such bonds and of the
17 sinking fund or reserve fund payments agreed to be made
18 in respect of such bonds all or any part of the gross or
19 net revenues thereafter received by the authority in
20 respect of the property, real, personal, or mixed, to
21 be acquired and/or constructed with such bonds or the
22 proceeds thereof, or all or any part of the gross or
23 net revenues thereafter received by the authority from
24 whatever source derived or pledging taxes to secure
25 the payment of the principal of and interest on such
26 bonds, . . .

27 (d) prescribing the purposes to which such bonds
28 or any bonds thereafter to be issued, or the proceeds
29 thereof, may be applied;

30 (e) agreeing to fix and collect rates and
31 charges sufficient to produce revenues adequate to pay
32 (1) all expenses necessary to the operation and
33 maintenance and replacements and additions to the
34 properties and facilities of the authority; (2) the
35 principal of, and the interest and premium, if any, on
36 bonds issued under this Act as and when the same became
37 due and payable; (3) all sinking fund and/or reserve
38 fund payments agreed to be made in respect of any such
39 bonds out of such revenues as and when the same became
40 due and payable; and to fulfill the terms of any
41 agreements made with the holders of such bonds and/or
42 with any person on their behalf and to discharge all
43 other lawful obligations of the authority as and when
44 the same become due;

45 (f) prescribing limitations upon the issuance
46 of additional bonds and subordinate lien bonds and
47 upon the agreements which may be made with the
48 purchasers and successive holders thereof;

49 (g) with regard to the construction, extension,
50 improvement, reconstruction, operation, maintenance,
51 and repair of the properties of the authority and
52 carrying of insurance on all or any part of said
53 properties covering loss or damage or loss of use and
54 occupancy resulting from specified risks;

55 (h) fixing the procedure, if any, by which, if
56 the authority shall so desire, the terms of any
57 contract with the holders of such bonds may be amended
58 or abrogated, the amount of bonds the holders of which
59 must consent thereto, and the manner in which such
60 consent may be given;

61 (i) for the execution and delivery by the
62 authority to a bank or trust company authorized by law
63 to accept trusts, or to the United States of America or
64 any officer or agency thereof, of indentures and
65 agreements for the benefit of the holders of such bonds

1 and such other provisions as may be customary in such
2 indentures or agreements; and

3 (j) such other provisions, not inconsistent
4 with the provisions of this Act, as the commission may
5 approve.

6 . . .

7 Revisor's Note

8 (1) Section 8, Chapter 379, Acts of the 63rd
9 Legislature, Regular Session, 1973, provides that
10 provisions of the resolution authorizing bonds are
11 "part of the contract between the authority and the
12 holders thereof from time to time." The revised law
13 omits "from time to time" because, to the extent the
14 phrase modifies "the contract [made]," the phrase can
15 be omitted for the reason stated in Revisor's Note (2)
16 to Section 5012.0057, and to the extent the phrase
17 modifies "the holders [of authority bonds],"
18 "bondholder" includes anyone holding a bond at any
19 time the statute is read.

20 (2) Section 8(c), Chapter 379, Acts of the 63rd
21 Legislature, Regular Session, 1973, refers to
22 "property, real, personal, or mixed." The revised law
23 omits the reference to "real, personal, or mixed" for
24 the reason stated in Revisor's Note (3) to Section
25 5012.0203.

26 (3) Section 8(e), Chapter 379, Acts of the 63rd
27 Legislature, Regular Session, 1973, refers to the
28 authority's "properties and facilities." The revised
29 law omits "facilities" as included in the meaning of
30 "properties."

31 (4) Section 8(i), Chapter 379, Acts of the 63rd
32 Legislature, Regular Session, 1973, refers to the
33 "United States of America or any . . . agency
34 thereof." The revised law omits the reference to an
35 agency of the United States because under Section
36 311.005(9), Government Code (Code Construction Act),
37 "United States" includes an agency of the United

1 States.

2 Revised Law

3 Sec. 5012.0206. BOND ANTICIPATION NOTES. (a) The
4 commission may declare an emergency because money is not available
5 to meet any of the authority's needs, including to pay the principal
6 of and interest on authority bonds.

7 (b) Bond anticipation notes may bear interest at a rate not
8 to exceed 10 percent and must mature not later than one year after
9 the date of issuance.

10 (c) Bond anticipation notes issued by the authority must be
11 taken up with the proceeds of the bonds, or the bonds may be issued
12 and delivered in exchange for the bond anticipation notes. (Acts
13 63rd Leg., R.S., Ch. 379, Sec. 8 (part).)

14 Source Law

15 Sec. 8. . . .

16 The board may declare an emergency in the matter
17 of funds not being available to pay principal of and
18 interest on any bonds of the district or to meet any
19 other needs of the district. Bond anticipation notes
20 may bear interest at any rate or rates not to exceed 10
21 percent and shall mature within one year of their date.
22 The bond anticipation notes so issued will be taken up
23 with the proceeds of bonds, or the bonds may be issued
24 and delivered in exchange for and in substitution of
25 such notes.

26 . . .

27 Revisor's Note

28 (1) Section 8, Chapter 379, Acts of the 63rd
29 Legislature, Regular Session, 1973, refers to the
30 "board" and the "district." The revised law
31 substitutes "commission" and "authority" for the
32 quoted language for the reason stated in the revisor's
33 note to Section 5012.0053.

34 (2) Section 8, Chapter 379, Acts of the 63rd
35 Legislature, Regular Session, 1973, refers to the
36 district's "funds." The revised law substitutes
37 "money" for "funds" for the reason stated in Revisor's
38 Note (1) to Section 5012.0154.

39 (3) Section 8, Chapter 379, Acts of the 63rd

1 Legislature, Regular Session, 1973, provides that
2 bonds may be "issued and delivered in exchange for and
3 in substitution of" bond anticipation notes. The
4 revised law omits the references to "substitution"
5 because, in context, "substitution" is included in the
6 meaning of "exchange."

7 Revised Law

8 Sec. 5012.0207. REFUNDING BONDS. (a) The authority may
9 make and issue bonds for the purpose of refunding or refinancing
10 outstanding bonds authorized and issued by the authority under this
11 chapter or other law and the interest and any premium on the bonds
12 to maturity or on any earlier redemption date specified in the
13 resolution authorizing the issuance of the refunding bonds.

14 (b) Refunding bonds issued by the authority may:

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

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

19 (3) be secured by other or additional revenue.

20 (c) The provisions of this chapter regarding the issuance of
21 bonds, the terms and provisions of bonds, and the remedies of the
22 bondholders apply to refunding bonds issued by the authority.

23 (d) The comptroller shall register the refunding bonds
24 issued by the authority on the surrender and cancellation of the
25 bonds to be refunded.

26 (e) Instead of issuing bonds to be registered on the
27 surrender and cancellation of the bonds to be refunded, the
28 authority, in the resolution authorizing the issuance of refunding
29 bonds, may provide for the sale of the refunding bonds and the
30 deposit of the proceeds at the places at which the bonds to be
31 refunded are payable. In that case, the refunding bonds may be
32 issued in an amount sufficient to pay the interest and premium, if
33 any, on the bonds to be refunded to the bonds' maturity date or
34 specified earlier redemption date, and the comptroller shall

1 register the refunding bonds without the concurrent surrender and
2 cancellation of the bonds to be refunded.

3 (f) The authority may also refund outstanding bonds in the
4 manner provided by Chapters 60-63, Water Code. (Acts 63rd Leg.,
5 R.S., Ch. 379, Sec. 8 (part).)

6 Source Law

7 Sec. 8. . . .

8 The authority is authorized to make and issue
9 bonds for the purpose of refunding or refinancing any
10 outstanding bonds or notes authorized and issued by
11 the authority pursuant to this Act or other law (herein
12 called "bond") and the interest and premium, if any,
13 thereon to maturity or on any earlier redemption date
14 specified in the resolution authorizing the issuance
15 of the refunding bonds. Such refunding bonds may be
16 issued to refund more than one series of outstanding
17 bonds, may combine the pledges of the outstanding
18 bonds for the security of the refunding bonds or may be
19 secured by other or additional revenues. All
20 provisions of this Act with reference to the issuance
21 of bonds, the terms and provisions thereof, their
22 approval by the attorney general, and the remedies of
23 the bondholders shall be applicable to refunding
24 bonds. Refunding bonds shall be registered by the
25 comptroller on surrender and cancellation of the bonds
26 to be refunded, but in lieu thereof, the resolution
27 authorizing the issuance of refunding bonds may
28 provide that they shall be sold and the proceeds
29 thereof deposited at the places at which the original
30 bonds are payable, in which case the refunding bonds
31 may be issued in an amount sufficient to pay the
32 principal, interest, and premium, if any, on the
33 original bonds to their maturity date or specified
34 earlier redemption date, and the comptroller will
35 register them without concurrent surrender and
36 cancellation of the original bonds. The authority may
37 also refund any outstanding bonds in the manner and to
38 the extent provided by Chapters 60-63, Water Code.

39 . . .

40 Revisor's Note

41 Section 8, Chapter 379, Acts of the 63rd
42 Legislature, Regular Session, 1973, refers to the
43 "approval by the attorney general" of refunding bonds.
44 The revised law omits the quoted language because it is
45 superseded by Section 1202.003, Government Code,
46 enacted in 1987 as Section 3.002(a), Chapter 53, Acts
47 of the 70th Legislature, 2nd Called Session (Article
48 717k-8, Vernon's Texas Civil Statutes). Throughout
49 this chapter, the revised law omits law that is
50 superseded by Chapter 1202, Government Code, or that

1 duplicates law contained in that chapter. Chapter
2 1202, Government Code, applies to authority bonds
3 under Sections 1202.001 and 1202.003, Government Code.

4 Revisor's Note
5 (End of Subchapter)

6 (1) Section 8, Chapter 379, Acts of the 63rd
7 Legislature, Regular Session, 1973, provides that the
8 net effective interest rate of authority bonds may not
9 exceed 10 percent per year. The revised law omits that
10 provision as superseded by other law. Chapter 3, Acts
11 of the 61st Legislature, Regular Session, 1969
12 (Article 717k-2, Vernon's Texas Civil Statutes), now
13 Chapter 1204, Government Code, established a maximum
14 interest rate for public securities. Section
15 1204.006, Government Code, reflecting the 1981
16 amendment of Article 717k-2 by Section 1, Chapter 61,
17 Acts of the 67th Legislature, Regular Session, permits
18 a public agency to issue public securities at any net
19 effective interest rate of 15 percent or less. Section
20 1204.006, Government Code, applies to authority bonds
21 under Sections 1204.001 and 1204.002, Government Code.
22 The omitted law reads:

23 Sec. 8. . . . [Such bonds may either
24 be (1) sold for cash, . . . at such price or
25 prices as the commission shall determine,]
26 provided that the net effective interest
27 rate, calculated in accordance with Chapter
28 3, Acts of the 61st Legislature, 1969, as
29 amended (Article 717k-2, Vernon's Texas
30 Civil Statutes), as now or hereafter
31 amended shall not exceed 10 percent; or
32 . . . [as such resolution or resolutions
33 may provide.] . . .

34 (2) Section 8, Chapter 379, Acts of the 63rd
35 Legislature, Regular Session, 1973, provides that a
36 resolution authorizing the issuance of bonds by the
37 authority may specify the date or dates of the bonds
38 and the date of maturity of the bonds. The revised law
39 omits the provision because it duplicates in substance

1 provisions of Sections 1201.021, 1201.022, and
2 1201.024, Government Code, which provide for the
3 characteristics, terms of issuance, and form of a
4 public security. The omitted law reads:

5 Sec. 8. . . . [All such bonds] . . .
6 shall bear such date or dates, mature at
7 such time or times, . . . as such resolution
8 or resolutions may provide. . . .

9 (3) Section 8, Chapter 379, Acts of the 63rd
10 Legislature, Regular Session, 1973, provides that
11 authority bonds may bear interest. The revised law
12 omits that provision because it duplicates in
13 substance Section 1201.021(2), Government Code. The
14 omitted law reads:

15 Sec. 8. . . . [All such bonds . . .
16 shall] . . . bear interest . . . [as such
17 resolution or resolutions may provide.]
18 . . .

19 (4) Section 8, Chapter 379, Acts of the 63rd
20 Legislature, Regular Session, 1973, provides that
21 interest on authority bonds may be payable annually,
22 semiannually, or otherwise, as provided by the bond
23 resolution. The revised law omits that provision
24 because it is superseded by Section 1201.021(5),
25 Government Code (enacted as Section 3, Bond Procedures
26 Act of 1981 (Article 717k-6, Vernon's Texas Civil
27 Statutes)), which provides in part that a public
28 security may be payable at the times and in the amounts
29 specified by the governing body of the issuer. The
30 omitted law reads:

31 Sec. 8. . . . [All such bonds . . .
32 shall . . . bear interest] . . . payable
33 annually, semiannually or otherwise, . . .
34 [as such resolution or resolutions may
35 provide.] . . .

36 (5) Section 8, Chapter 379, Acts of the 63rd
37 Legislature, Regular Session, 1973, provides that
38 authority bonds may be in the denominations provided
39 by the bond resolution. The revised law omits that

1 provision because it duplicates in substance Section
2 1201.021(1), Government Code. The omitted law reads:

3 Sec. 8. . . . [All such bonds . . .
4 shall] . . . be in such denominations,
5 . . . [as such resolution or resolutions
6 may provide.] . . .

7 (6) Section 8, Chapter 379, Acts of the 63rd
8 Legislature, Regular Session, 1973, provides that a
9 resolution authorizing the issuance of bonds by the
10 authority may specify the form of the bonds. The
11 revised law omits the provision because it duplicates
12 in substance or is superseded by Sections 1201.021 and
13 1201.024, Government Code, which provide for the form
14 and characteristics of a public security. The omitted
15 law reads:

16 Sec. 8. . . . [All such bonds . . .
17 shall] . . . be in such form, either coupon
18 or registered, . . . [as such resolution or
19 resolutions may provide.] . . .

20 (7) Section 8, Chapter 379, Acts of the 63rd
21 Legislature, Regular Session, 1973, describes
22 registration and exchange privileges for authority
23 bonds. The revised law omits those provisions because
24 they duplicate in substance Section 1201.022(a)(4),
25 Government Code, and part of Section 1201.024,
26 Government Code. Section 1201.022(a)(4), Government
27 Code, provides that a public security may be issued
28 with specified characteristics, on specified terms, or
29 in a specified manner, and that law is sufficient
30 authority for authority bonds to be exchangeable for
31 bonds of another denomination. Section 1201.024,
32 Government Code, provides that a public security may
33 be registrable as to principal and interest or only as
34 to principal and that an issuer may provide that coupon
35 bonds are exchangeable for registered bonds and vice
36 versa. The omitted law reads:

37 Sec. 8. . . . [All such bonds . . .

1 shall] . . . carry such registration
2 privileges as to principal only or as to
3 both principal and interest, and as to
4 exchange of coupon bonds for registered
5 bonds or vice versa, and exchange of bonds
6 of one denomination for bonds of other
7 denominations, . . . [as such resolution or
8 resolutions may provide.] . . .

9 (8) Section 8, Chapter 379, Acts of the 63rd
10 Legislature, Regular Session, 1973, provides that a
11 resolution that authorizes the issuance of authority
12 bonds may specify the manner of execution of the bonds
13 issued. The revised law omits that provision because
14 it duplicates in substance Section 1201.026,
15 Government Code, which provides for execution of a
16 public security. The omitted law reads:

17 Sec. 8. . . . [All such bonds . . .
18 shall] . . . be executed in such manner and
19 . . . [as such resolution or resolutions
20 may provide.] . . .

21 (9) Section 8, Chapter 379, Acts of the 63rd
22 Legislature, Regular Session, 1973, provides that
23 authority bonds may be payable at the place or places
24 inside or outside the state as provided by the bond
25 resolution. The revised law omits that provision
26 because Section 1201.021(5)(C), Government Code,
27 provides that a public security may be payable at a
28 specified place or places. The omitted law reads:

29 Sec. 8. . . . [All such bonds . . .
30 shall] . . . be payable at such place or
31 places within or without the State of Texas,
32 [as such resolution or resolutions may
33 provide.] . . .

34 (10) Section 8, Chapter 379, Acts of the 63rd
35 Legislature, Regular Session, 1973, provides that
36 before bonds may be sold by the authority, a certified
37 copy of the proceedings for the issuance of the bonds
38 and other information must be submitted to the
39 attorney general. It also provides that if the
40 attorney general finds that the bonds have been issued
41 in accordance with law and approves the bonds, the

1 attorney general shall execute a certificate to that
2 effect. In addition, it requires that the certificate
3 be filed and recorded in the office of the comptroller
4 and prohibits the issuance of bonds until they have
5 been registered by the comptroller. Section 8 also
6 requires the comptroller to register the bonds if the
7 attorney general files with the comptroller the
8 attorney general's certificate approving the bonds and
9 the proceedings for the issuance of the bonds. The
10 revised law omits those provisions as duplicative of
11 or superseded by Chapter 1202, Government Code,
12 enacted as Article 3, Chapter 53, Acts of the 70th
13 Legislature, 2nd Called Session, 1987 (Article 717k-8,
14 Vernon's Texas Civil Statutes). Section 1202.003(a),
15 Government Code, requires bonds to be submitted to the
16 attorney general. Section 1202.003(b), Government
17 Code, provides for approval of the bonds by the
18 attorney general and requires the attorney general to
19 submit the approved bonds to the comptroller for
20 registration. Section 1202.005, Government Code,
21 requires registration of the bonds by the comptroller.
22 The omitted law reads:

23 Sec. 8. . . .

24 Before any bonds shall be sold or
25 exchanged or substituted by the authority,
26 a certified copy of the proceedings of the
27 issuance thereof, including the form of
28 such bonds, together with any other
29 information which the attorney general of
30 the State of Texas may require, shall be
31 submitted to the attorney general, and if he
32 shall find that such bonds have been issued
33 in accordance with law, and if he shall
34 approve such bonds, he shall execute a
35 certificate to that effect which shall be
36 filed in the office of the comptroller of
37 the State of Texas and be recorded in a
38 record kept for that purpose. No bonds
39 shall be issued until the same shall have
40 been registered by the comptroller, who
41 shall so register the same if the attorney
42 general shall have filed with the
43 comptroller his certificate approving the
44 bonds and the proceedings for the issuance
45 thereof as hereinabove provided.

1 . . .
2 If such bonds have been authorized and . . .
3 made in compliance with law, the attorney
4 general shall approve the bonds and . . .
5 the bonds shall then be registered by the
6 comptroller of public accounts. . . .

7 (11) Section 8, Chapter 379, Acts of the 63rd
8 Legislature, Regular Session, 1973, provides that
9 after approval and registration, authority bonds are
10 incontestable and binding obligations. The revised
11 law omits that provision as duplicative of or
12 impliedly repealed by Section 1202.006, Government
13 Code (enacted as Section 3.002(d), Chapter 53, Acts of
14 the 70th Legislature, 2nd Called Session, 1987
15 (Article 717k-8, Vernon's Texas Civil Statutes)).
16 Section 1202.006, Government Code, provides that after
17 approval and registration, bonds are incontestable and
18 binding obligations. The omitted law reads:

19 Sec. 8. . . .
20 All bonds approved by the attorney
21 general as aforesaid, and registered by the
22 comptroller as aforesaid, and issued in
23 accordance with the proceedings so approved
24 shall be valid and binding obligations of
25 the authority and shall be incontestable
26 for any cause from and after the time of
27 such registration.
28 . . .

29 (12) Section 8, Chapter 379, Acts of the 63rd
30 Legislature, Regular Session, 1973, details various
31 procedures regarding approval of bond contracts and
32 proceedings by the attorney general. The revised law
33 omits the portion of Section 8 regarding the validity
34 and incontestability of a contract the proceeds of
35 which are pledged to the payment of a bond as
36 superseded by Section 1202.006, Government Code
37 (enacted as Section 3.002(d), Chapter 53, Acts of the
38 70th Legislature, 2nd Called Session, 1987 (Article
39 717k-8, Vernon's Texas Civil Statutes)). Section
40 1202.006, Government Code, provides that after
41 approval and registration of the bond, the bond and

1 contract are not contestable for any reason. The
2 omitted law reads:

3 Sec. 8. . . .

4 If any bonds recite that they are
5 secured by a pledge of the proceeds of a
6 contract, lease, sale or other agreement
7 (herein called "contract"), a copy of such
8 contract and the proceedings of the
9 contracting parties will also be submitted
10 to the attorney general. [If such bonds
11 have been authorized and] such contracts
12 [made in compliance with law, the attorney
13 general shall approve the bonds and]
14 contracts, and When so approved,
15 such bonds and the contracts shall be valid
16 and binding and shall be incontestable for
17 any cause from and after the time of such
18 registration.

19 . . .

20 (13) Section 8, Chapter 379, Acts of the 63rd
21 Legislature, Regular Session, 1973, provides that
22 authority bonds are investment securities within the
23 meaning of the Uniform Commercial Code. The revised
24 law omits the provision because it duplicates in
25 substance Section 1201.041(2), Government Code. The
26 omitted law reads:

27 Sec. 8. . . .

28 All bonds issued by the authority
29 pursuant to the provisions of this Act shall
30 constitute investment securities within the
31 meaning of the Uniform Commercial
32 Code. . . .

33 (14) Section 8, Chapter 379, Acts of the 63rd
34 Legislature, Regular Session, 1973, provides that the
35 act, without reference to other statutes, is full
36 authority for the authorization and issuance of bonds
37 and that no other law with regard to the authorization
38 or issuance of obligations or the deposit of the
39 proceeds of obligations, or in any way impeding or
40 restricting the carrying out of the acts authorized by
41 the act to be done, applies to any proceedings taken
42 under the act or acts done pursuant to the act.

43 The revised law omits the statement that the act,
44 without reference to other statutes, is full authority

1 for the authorization and issuance of bonds because it
2 is unnecessary. The operative provisions of the act
3 are fully effective on their own terms.

4 The revised law omits as unnecessary and
5 potentially misleading the statement that no other law
6 with regard to the authorization or issuance of
7 obligations or the deposit of the proceeds of
8 obligations, or in any way impeding or restricting the
9 carrying out of the acts authorized by the act to be
10 done, applies to any proceedings taken under the act or
11 acts done pursuant to the act. An accepted general
12 principle of statutory construction requires a statute
13 to be given cumulative effect with other statutes
14 unless it provides otherwise or unless the statutes
15 are in conflict. To the extent the statement means
16 that the act prevails over other law in existence at
17 the time the act became effective and with which the
18 act conflicts, the statement merely restates general
19 rules of statutory construction. To the extent the
20 statement means the act prevails over future
21 enactments of the legislature that may conflict with
22 the act, the statement is misleading in that one
23 session of the legislature may not bind a future
24 session of the legislature. Conflicts between the
25 revised law (which is a local law) and other laws are
26 governed by Section 311.026, Government Code (Code
27 Construction Act). That section provides that if
28 there is a conflict between a general provision of law
29 and a special or local provision, the special or local
30 provision prevails unless the general provision is the
31 later enactment and the manifest intent is that the
32 general provision prevail. The omitted law reads:

33 Sec. 8. . . .
34 This Act, without reference to other
35 statutes of the State of Texas, shall

1 constitute full authority for the
2 authorization and issuance of bonds
3 hereunder, and no other act or law with
4 regard to the authorization or issuance of
5 obligations or the deposit of the proceeds
6 thereof, or in any way impeding or
7 restricting the carrying out of the acts
8 herein authorized to be done shall be
9 construed as applying to any proceedings
10 taken hereunder or acts done pursuant
11 hereto.

12 Revisor's Note
13 (End of Chapter)

14 (1) Section 2, Chapter 812, Acts of the 66th
15 Legislature, Regular Session, 1979, and Section 3,
16 Chapter 56, Acts of the 67th Legislature, Regular
17 Session, 1981, recite legislative findings regarding
18 procedural requirements for legislation affecting the
19 authority under the constitution and other laws and
20 rules, including proper legal notice and the filing of
21 recommendations. The revised law omits those
22 provisions as executed. The omitted law reads:

23 [Acts 66th Leg., R.S., Ch. 812]

24 Sec. 2. It is determined and found
25 that a proper and written notice of the
26 intention to introduce this Act setting
27 forth the general substance of this Act has
28 been published at least 30 days and not more
29 than 90 days prior to the introduction of
30 this Act in the Legislature of Texas in a
31 newspaper having general circulation in
32 Jefferson County, Texas; that a copy of such
33 notice and a copy of this Act have been
34 delivered to the Governor of Texas who has
35 submitted such notice and Act to the Texas
36 Department of Water Resources, and said
37 Texas Department of Water Resources has
38 filed its recommendations as to this Act
39 with the governor, lieutenant governor, and
40 speaker of the house of representatives
41 within 30 days from the date such notice and
42 Act were received by the Texas Department of
43 Water Resources; and that all the
44 requirements and provisions of Article XVI,
45 Section 59d, of the Texas Constitution have
46 been fulfilled and accomplished.

47 [Acts 67th Leg., R.S., Ch. 56]

48 Sec. 3. Proof of publication of the
49 constitutional notice required in the
50 enactment hereof under the provisions of
51 Article XVI, Section 59(d), of the Texas
52 Constitution has been made in the manner
53 provided therein, and a copy of said notice
54 and the bill as originally introduced have
55 been delivered to the Governor of the State
56 of Texas as required by such constitutional

1 provision, and such notice and delivery are
2 hereby found and declared to be proper and
3 sufficient to satisfy such requirement.

4 (2) Section 3, Chapter 812, Acts of the 66th
5 Legislature, Regular Session, 1979, provides that
6 Chapter 812 does not apply to or affect any litigation
7 instituted before the effective date of Chapter 812
8 that questions the legality of any acts taken or
9 proceedings had by the commission or the authority
10 before that effective date. The revised law omits the
11 provision as executed and because Section 311.031(a),
12 Government Code (Code Construction Act), provides that
13 the reenactment, revision, amendment, or repeal of a
14 statute does not affect matters occurring before or
15 pending on the reenactment, revision, amendment, or
16 repeal of the statute. The omitted law reads:

17 Sec. 3. This Act does not apply to or
18 affect any litigation instituted prior to
19 the effective date of this Act which
20 questions the legality of any acts taken or
21 proceedings had by the commission or the
22 authority prior to said effective date.

23 (3) Section 2, Chapter 56, Acts of the 67th
24 Legislature, Regular Session, 1981, provides that the
25 act is severable. The revised law omits that provision
26 because the same result is produced by application of
27 Section 311.032, Government Code (Code Construction
28 Act), which provides that a provision of a statute is
29 severable from each other provision of the statute
30 that can be given effect. The omitted law reads:

31 Sec. 2. In case any one or more of the
32 provisions, clauses, or words of this Act or
33 the application thereof to any situation or
34 circumstance shall for any reason be held to
35 be invalid or unconstitutional, such
36 invalidity or unconstitutionality shall not
37 affect any other provisions, clauses, or
38 words of this Act or the application thereof
39 to any other situation or circumstance, and
40 it is intended that this Act shall be
41 severable and shall be construed and
42 applied as if any such invalid or
43 unconstitutional section, provision,
44 clause, or word had not been included
45 herein.

1 CHAPTER 5016. PORT OF CORPUS CHRISTI AUTHORITY OF NUECES COUNTY,
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18 CHAPTER 5016. PORT OF CORPUS CHRISTI AUTHORITY OF NUECES COUNTY,
19 TEXAS

20 SUBCHAPTER A. GENERAL PROVISIONS

21 Revised Law

22 Sec. 5016.0001. DEFINITIONS. In this chapter:
23 (1) "Adjacent property" means the approximately 433
24 acres that the authority owns in San Patricio County that is bounded
25 on the east by the western boundary of the former Naval Station
26 Ingleside, on the north by Farm-to-Market Road 1069, on the west by
27 the corporate limits of the City of Ingleside on the Bay, and on the
28 south by the corporate limits of the City of Ingleside on the Bay
29 and the north shoreline of Corpus Christi Bay. The term does not
30 include property:
31 (A) that the authority purchased from this state
32 under former Article 8225, Revised Statutes; or
33 (B) that was granted to the authority by this
34 state under any general or special law.

1 (2) "Authority" means the Port of Corpus Christi
2 Authority of Nueces County, Texas.

3 (3) "Naval property" means:

4 (A) the approximately 576.615 acres of land and
5 submerged land in San Patricio and Nueces Counties, improvements,
6 and personal property, if any, that reverted to the authority when
7 former Naval Station Ingleside closed, other than property that the
8 authority purchased from this state under former Article 8225,
9 Revised Statutes, or that was granted to the authority by this state
10 under any general or special law; and

11 (B) the adjacent property.

12 (4) "Port commission" means the authority's governing
13 body.

14 (5) "Port commissioner" means a member of the port
15 commission. (Acts 67th Leg., R.S., Ch. 165, Sec. 2; Acts 68th Leg.,
16 R.S., Ch. 397, Secs. 1, 1A as added Acts 81st Leg., R.S., Ch. 53.)

17 Source Law

18 [Acts 67th Leg., R.S., Ch. 165]
19 Sec. 2. The name of the board of navigation and
20 canal commissioners of the authority is changed to the
21 port commission and the title of each member is port
22 commissioner.

23 [Acts 68th Leg., R.S., Ch. 397]
24 Sec. 1. In this Act:
25 (1) "Adjacent property" means the
26 approximately 433 acres that the authority owns in San
27 Patricio County that is bounded on the east by the
28 western boundary of Naval Station Ingleside, on the
29 north by Farm-to-Market Road 1069, on the west by the
30 city limits of the City of Ingleside on the Bay, and on
31 the south by the city limits of the City of Ingleside
32 on the Bay and the north shoreline of Corpus Christi
33 Bay. The term does not include property that the
34 authority purchased from this state under Article
35 8225, Revised Statutes, or that was granted to the
36 authority by this state under any general or special
37 Act.

38 (2) "Authority" means the Port of Corpus
39 Christi Authority of Nueces County, Texas.

40 (3) "Naval property" means:
41 (A) the approximately 576.615 acres
42 of land and submerged land in San Patricio and Nueces
43 Counties, improvements, and personal property, if any,
44 that revert to the authority when Naval Station
45 Ingleside closes, other than property that the
46 authority purchased from this state under Article
47 8225, Revised Statutes, or that was granted to the
48 authority by this state under any general or special
49 Act; and

1 (B) the adjacent property.
2 (4) "Port commission" means the governing
3 body of the authority.

4 Sec. 1A. In this Act:

5 (1) "Authority" means the Port of Corpus
6 Christi Authority of Nueces County, Texas.

7 (2) "Port commission" means the governing
8 body of the Port of Corpus Christi Authority of Nueces
9 County, Texas.

10 (3) "Port commissioner" means a member of
11 the port commission.

12 Revisor's Note

13 (1) Sections 1(1) and (3), Chapter 397, Acts of
14 the 68th Legislature, Regular Session, 1983, refer to
15 "Naval Station Ingleside." Because Naval Station
16 Ingleside closed on April 30, 2010, the revised law
17 adds "former" to references to "Naval Station
18 Ingleside."

19 (2) Sections 1(1) and (3), Chapter 397, Acts of
20 the 68th Legislature, Regular Session, 1983, refer to
21 property purchased by the authority under "Article
22 8225, Revised Statutes." The revised law retains the
23 reference to Article 8225, Revised Statutes, because
24 that was the law in effect at the time the authority
25 purchased the property but adds "former" to the
26 references to that article because it was codified in
27 1971 as Sections 61.115, 61.116, and 61.117, Water
28 Code.

29 Revised Law

30 Sec. 5016.0002. FORMER NAME OF AUTHORITY. Before May 20,
31 1981, the authority was known as the Nueces County Navigation
32 District No. 1. (Acts 67th Leg., R.S., Ch. 165, Sec. 1; New.)

33 Source Law

34 Sec. 1. The name of Nueces County Navigation
35 District No. 1 is changed to the Port of Corpus Christi
36 Authority of Nueces County, Texas.

37 Revisor's Note

38 Section 1, Chapter 165, Acts of the 67th
39 Legislature, Regular Session, 1981, which took effect
40 on May 20, 1981, renamed the Nueces County Navigation

1 District No. 1 as the Port of Corpus Christi Authority
2 of Nueces County, Texas. The revised law retains the
3 reference to the authority's former name to clarify a
4 reference to the former name in another law and adds a
5 reference to the effective date for the reader's
6 convenience.

7 SUBCHAPTER B. PORT COMMISSION

8 Revised Law

9 Sec. 5016.0051. COMPOSITION OF PORT COMMISSION. The port
10 commission is composed of seven port commissioners. (Acts 68th
11 Leg., R.S., Ch. 397, Sec. 1A as added Acts 81st Leg., R.S., Ch. 498;
12 Acts 78th Leg., R.S., Ch. 1334, Sec. 3 (part).)

13 Source Law

14 [Acts 68th Leg., R.S., Ch. 397]

15 Sec. 1A. The port commission is composed of
16 seven members.

17 [Acts 78th Leg., R.S., Ch. 1334]

18 Sec. 3. [If the annexation of San Patricio
19 County is approved at an election held under Section 2
20 of this Act:]

21 (1) the port commission is composed of
22 seven members;

23 . . .

24 Revised Law

25 Sec. 5016.0052. APPOINTMENT OF PORT COMMISSIONERS; TERMS;
26 ELIGIBILITY. (a) Port commissioners are appointed as follows:

27 (1) the Commissioners Court of Nueces County shall
28 appoint three port commissioners;

29 (2) the city council of the City of Corpus Christi
30 shall appoint three port commissioners; and

31 (3) the Commissioners Court of San Patricio County
32 shall appoint one port commissioner.

33 (b) Port commissioners serve staggered three-year terms
34 that expire in January.

35 (c) A port commissioner may not serve more than four full
36 terms.

37 (d) A person must have been a resident of Nueces County for
38 at least six months to be eligible for appointment to the port

1 commission by the Commissioners Court of Nueces County or the city
2 council of the City of Corpus Christi.

3 (e) Subsections (c) and (d) do not apply to a person serving
4 as a port commissioner on June 9, 1995. (Acts 68th Leg., R.S., Ch.
5 397, Secs. 2, 3, 4(c), (d); Acts 74th Leg., R.S., Ch. 469, Sec. 2;
6 Acts 78th Leg., R.S., Ch. 1334, Sec. 3 (part).)

7 Source Law

8 [Acts 68th Leg., R.S., Ch. 397]

9 Sec. 2. (a) The Commissioners Court of Nueces
10 County shall appoint four members to the port
11 commission, and the City Council of Corpus Christi
12 shall appoint three members to the port commission.

13 (b) A person must have been a resident of Nueces
14 County for at least six months to be eligible for
15 appointment to the port commission.

16 Sec. 3. (a) The port commissioners shall serve
17 staggered three-year terms.

18 (b) A person may not serve more than four full
19 terms as port commissioner.

20 [Sec. 4]

21 (c) In making its initial appointments to the
22 port commission, the Commissioners Court of Nueces
23 County shall appoint:

24 (1) one port commissioner to a term that
25 expires in January, 1986;

26 (2) one port commissioner to a term that
27 expires in January, 1987; and

28 (3) two port commissioners to terms that
29 expire in January, 1988.

30 (d) In making its initial appointments to the
31 port commission, the City Council of Corpus Christi
32 shall appoint:

33 (1) one port commissioner to a term that
34 expires in January, 1986;

35 (2) one port commissioner to a term that
36 expires in January, 1987; and

37 (3) one port commissioner to a term that
38 expires in January, 1988.

39 [Acts 74th Leg., R.S., Ch. 469]

40 Sec. 2. The change in law made by this Act does
41 not affect the eligibility of a person who, on the
42 effective date of this Act, is a member of the port
43 commission of the Port of Corpus Christi Authority of
44 Nueces County.

45 [Acts 78th Leg., R.S., Ch. 1334]

46 Sec. 3. [If the annexation of San Patricio
47 County is approved at an election held under Section 2
48 of this Act:]

49 . . .

50 (2) notwithstanding Section 2, Chapter
51 397, Acts of the 68th Legislature, Regular Session,
52 1983:

53 (A) the Commissioners Court of Nueces
54 County shall appoint three members to the port
55 commission;

56 (B) the City Council of Corpus
57 Christi shall appoint three members to the port

1 commission; and
2 (C) the Commissioners Court of San
3 Patricio County shall appoint one member to the port
4 commission;

5 . . .

6 Revisor's Note

7 (1) Section 2, Chapter 397, Acts of the 68th
8 Legislature, Regular Session, 1983, provides the
9 manner of appointment of and eligibility requirements
10 for port commissioners. Section 3, Chapter 1334, Acts
11 of the 78th Legislature, Regular Session, 2003,
12 provides that if the annexation of San Patricio County
13 is approved at a confirmation election, Section 3
14 governs the appointment of port commissioners. The
15 revised law omits the provisions of Section 2 of
16 Chapter 397 that relate to the appointment of port
17 commissioners as superseded by Section 3 of Chapter
18 1334 because the annexation of San Patricio County was
19 approved at a confirmation election and the authority
20 has annexed San Patricio County, as stated in Revisor's
21 Note (2) at the end of this chapter. The revised law
22 adds "by the Commissioners Court of Nueces County or
23 the city council of the City of Corpus Christi" to the
24 provision requiring a person to have been a resident of
25 Nueces County for at least six months to be eligible
26 for appointment to the port commission in order to
27 clarify that the residency requirement applies only to
28 persons appointed to the port commission by the
29 Commissioners Court of Nueces County or the city
30 council of Corpus Christi and not to persons appointed
31 by the Commissioners Court of San Patricio County.

32 (2) Sections 4(c) and (d), Chapter 397, Acts of
33 the 68th Legislature, Regular Session, 1983, prescribe
34 the procedure for staggering the terms of the port
35 commissioners first appointed under that act. The
36 revised law revises the establishment of staggered

1 terms expiring in January but omits the provisions
2 relating to the date the initial terms expire as
3 executed.

4 (3) Section 2, Chapter 469, Acts of the 74th
5 Legislature, Regular Session, 1995, provides that the
6 changes in law made by Chapter 469 do not affect the
7 eligibility of a person serving as a port commissioner
8 on "the effective date of this Act." Chapter 469 added
9 a residency requirement for service on the port
10 commission and imposed term limits on port
11 commissioners. The revised law substitutes "June 9,
12 1995" for the quoted language because that is the date
13 on which Chapter 469 took effect.

14 (4) Section 3, Chapter 1334, Acts of the 78th
15 Legislature, Regular Session, 2003, provides for the
16 appointment of port commissioners "notwithstanding
17 Section 2, Chapter 397, Acts of the 68th Legislature,
18 Regular Session, 1983." The revised law omits the
19 quoted language as unnecessary because the provisions
20 of Section 2 of Chapter 397 that relate to the
21 appointment of port commissioners are omitted from the
22 revised law for the reason stated in Revisor's Note (1)
23 to this section.

24 Revised Law

25 Sec. 5016.0053. FILING OF FINANCIAL STATEMENT BY PORT
26 COMMISSIONERS. (a) Not later than April 30 of each year, a port
27 commissioner shall file with the Texas Ethics Commission a
28 financial statement that complies with Sections 572.022-572.024,
29 Government Code.

30 (b) The filed statement is a public record. (Acts 68th
31 Leg., R.S., Ch. 397, Sec. 4A.)

32 Source Law

33 Sec. 4A. Not later than April 30 each year, a
34 port commissioner shall file with the Texas Ethics
35 Commission a financial statement that complies with

1 Sections 572.022-572.024, Government Code. A
2 statement filed under this section is a public record.

3 Revisor's Note
4 (End of Subchapter)

5 Sections 4(a), (b), and (e), Chapter 397, Acts of
6 the 68th Legislature, Regular Session, 1983, require
7 port commissioners serving on the effective date of
8 Chapter 397 to serve until their terms expire in
9 January 1985, provide for the appointment of the port
10 commissioners initially appointed under Section 4, and
11 provide for the appointment and terms of the
12 successors to those initial appointees. The revised
13 law omits those provisions as executed. The omitted
14 law reads:

15 Sec. 4. (a) The persons serving as
16 port commissioners on the effective date of
17 this Act remain in office and shall continue
18 to have the powers and perform the duties of
19 port commissioners until the expiration of
20 their terms in January, 1985.

21 (b) On the expiration of the terms of
22 the port commissioners serving on the
23 effective date of this Act, seven persons
24 must be appointed as provided by Section 2
25 of this Act to serve as the port
26 commissioners for the Port of Corpus
27 Christi Authority of Nueces County, Texas.

28 (e) Successors to the initial
29 appointees shall be appointed and shall
30 serve for three-year terms.

31 SUBCHAPTER C. POWERS AND DUTIES

32 Revised Law

33 Sec. 5016.0101. USE AND DISPOSITION OF NAVAL PROPERTY. (a)
34 The authority may use naval property in ways that replace and
35 enhance the economic benefits generated by the former Naval Station
36 Ingleside through diversified activities, including uses to
37 foster:

- 38 (1) job creation and retention;
39 (2) economic development;
40 (3) industry;
41 (4) commerce;
42 (5) manufacturing;

- 1 (6) housing;
- 2 (7) recreation; and
- 3 (8) infrastructure installation on naval property.

4 (b) The port commission may:

5 (1) declare any portion of naval property surplus if
6 the property is not needed for a navigation-related project; and

7 (2) sell or lease the surplus property on terms the
8 port commission considers advisable to carry out the purposes of
9 this chapter.

10 (c) Notwithstanding any other law and subject to the terms
11 of this subsection, the authority may sell or lease property
12 declared surplus under this section with or without public bidding.
13 The authority may not sell naval property declared surplus under
14 this section in a private sale for less than the property's fair
15 market value. The authority shall obtain an appraisal of the
16 surplus property, which is conclusive evidence of the surplus
17 property's fair market value.

18 (d) The authority may contract with another person for
19 assistance in accomplishing the purposes of this section by
20 competitive bidding or negotiated contract as the port commission
21 considers appropriate, desirable, and in the authority's best
22 interests. (Acts 68th Leg., R.S., Ch. 397, Secs. 4B(a), (b), (c),
23 (d) as added Acts 81st Leg., R.S., Ch. 498.)

24 Source Law

25 Sec. 4B. (a) The authority may use the naval
26 property in ways that replace and enhance the economic
27 benefits generated by Naval Station Ingleside through
28 diversified activities, including uses to foster:

- 29 (1) the creation and retention of new
30 jobs;
- 31 (2) economic development;
- 32 (3) industry;
- 33 (4) commerce;
- 34 (5) manufacturing;
- 35 (6) housing;
- 36 (7) recreation; and
- 37 (8) the installation of infrastructure on
38 the naval property.

39 (b) The authority may contract with another
40 person for assistance in accomplishing the purposes of
41 this section by competitive bidding or negotiated
42 contract as the port commission considers appropriate,
43 desirable, and in the best interests of the authority.

1 (c) The port commission may declare any portion
2 of the naval property not needed for a
3 navigation-related project surplus property and may
4 sell or lease the surplus property on terms the port
5 commission considers advisable to carry out the
6 purposes of this Act.

7 (d) Notwithstanding any other law, and subject
8 to the terms of this subsection, the authority may sell
9 or lease property declared surplus under this section
10 with or without public bidding. Naval property
11 declared surplus under this section may not be sold in
12 a private sale for less than its fair market value.
13 The authority shall obtain an appraisal of the surplus
14 property, and the appraisal is conclusive evidence of
15 the surplus property's fair market value.

16 Revisor's Note

17 (1) Section 4B(a), Chapter 397, Acts of the 68th
18 Legislature, Regular Session, 1983, as added by
19 Chapter 498, Acts of the 81st Legislature, Regular
20 Session, 2009, refers to "Naval Station Ingleside."
21 The revised law adds "former" to that reference for the
22 reason stated in Revisor's Note (1) to Section
23 5016.0001.

24 (2) Section 4B(e), Chapter 397, Acts of the 68th
25 Legislature, Regular Session, 1983, as added by
26 Chapter 498, Acts of the 81st Legislature, Regular
27 Session, 2009, provides that Section 4B is cumulative
28 of and in addition to other law applicable to or
29 affecting the authority. The revised law omits the
30 provision as unnecessary because an accepted general
31 principle of statutory construction requires that a
32 statute be given cumulative effect with other statutes
33 unless the statute provides otherwise or unless the
34 statute conflicts with another statute. In addition,
35 Section 4B(e) provides that Section 4B "does not limit
36 the power of the authority to use other law not in
37 conflict with" the act. The revised law omits the
38 provision as unnecessary because it is an accepted
39 general principle of statutory construction that a
40 grant of power does not act as a limitation. The
41 omitted law reads:

1 (e) This section is cumulative of and
2 in addition to other law applicable to or
3 affecting the authority. This section does
4 not limit the power of the authority to use
5 other law not in conflict with this Act to
6 the extent necessary or convenient to carry
7 out a power expressly or impliedly granted
8 by this section.

9 Revised Law

10 Sec. 5016.0102. ELECTIONS. An election relating to the
11 authority must be held in the authority as a whole and not on a
12 county-by-county basis. (Acts 68th Leg., R.S., Ch. 397, Sec. 4B as
13 added Acts 81st Leg., R.S., Ch. 53; Acts 78th Leg., R.S., Ch. 1334,
14 Sec. 4.)

15 Source Law

16 [Acts 68th Leg., R.S., Ch. 397]

17 Sec. 4B. An election relating to the authority
18 shall be held in the authority as a whole, and not on a
19 county-by-county basis.

20 [Acts 78th Leg., R.S., Ch. 1334]

21 Sec. 4. If the annexation of San Patricio County
22 is approved at an election held under Section 2 of this
23 Act, any subsequent election relating to the authority
24 shall be held in the authority as a whole, and not on a
25 county-by-county basis.

26 Revisor's Note

27 Section 4, Chapter 1334, Acts of the 78th
28 Legislature, Regular Session, 2003, provides the
29 manner of holding authority elections "[i]f the
30 annexation of San Patricio County is approved at an
31 election held under Section 2 of this Act." Section 4
32 also refers to "subsequent" elections to distinguish
33 between the initial confirmation election held under
34 Section 2 of Chapter 1334 and any subsequent election
35 held in the authority. Because the revised law omits
36 Section 2 of Chapter 1334 as executed (see Revisor's
37 Note (2) at the end of this chapter), the revised law
38 also omits the quoted provisions as unnecessary.

39 Revised Law

40 Sec. 5016.0103. SECURITY AND LAW ENFORCEMENT. (a) The port
41 commission may adopt, amend, repeal, and enforce an ordinance,
42 rule, or police regulation necessary to:

1 (1) protect, secure, and defend the ship channels and
2 waterways in the authority's jurisdiction and facilities served by
3 those ship channels and waterways;

4 (2) promote the health, safety, and general welfare of
5 any person using the ship channels and waterways in the authority's
6 jurisdiction; or

7 (3) comply with a federal law or regulation or
8 implement a directive or standard of the federal government,
9 including the United States Department of Homeland Security and the
10 United States Coast Guard, relating to securing ship channels and
11 waterways and facilities served by ship channels and waterways and
12 preventing terrorist attacks on ship channels, waterways,
13 associated maritime facilities, and other facilities served by ship
14 channels and waterways.

15 (b) In the enforcement of an authority ordinance, rule, or
16 police regulation, a sheriff, constable, or other licensed peace
17 officer or a peace officer employed or appointed by the port
18 commission may make arrests, serve criminal warrants, subpoenas, or
19 writs, and perform any other service or duty that may be performed
20 by any sheriff, constable, or other licensed peace officer in
21 enforcing other laws of this state.

22 (c) In adopting an ordinance, rule, or police regulation
23 under Subsection (a) of this section, the port commission shall
24 comply with the procedures provided by Sections 60.074 and 60.075,
25 Water Code. (Acts 68th Leg., R.S., Ch. 397, Secs. 4C(a), (b), (c).)

26 Source Law

27 Sec. 4C. (a) The port commission may adopt,
28 amend, repeal, and enforce an ordinance, rule, or
29 police regulation necessary to:

30 (1) protect, secure, and defend the ship
31 channels and waterways in the jurisdiction of the
32 authority and facilities served by those ship channels
33 and waterways;

34 (2) promote the health, safety, and
35 general welfare of any person using the ship channels
36 and waterways in the jurisdiction of the authority; or

37 (3) comply with a federal law or
38 regulation or implement a directive or standard of the
39 federal government, including the United States
40 Department of Homeland Security and the United States
41 Coast Guard, relating to securing ship channels and

1 waterways and facilities served by ship channels and
2 waterways and preventing terrorist attacks on ship
3 channels, waterways, associated maritime facilities,
4 and other facilities served by ship channels and
5 waterways.

6 (b) In the enforcement of an authority
7 ordinance, rule, or police regulation, a sheriff,
8 constable, or other duly constituted peace officer of
9 this state or a peace officer employed or appointed by
10 the port commission may make arrests, serve criminal
11 warrants, subpoenas, or writs, and perform any other
12 service or duty that may be performed by any sheriff,
13 constable, or other duly constituted peace officer of
14 this state in enforcing other laws of this state.

15 (c) In adopting an ordinance, rule, or police
16 regulation under Subsection (a) of this section, the
17 port commission shall comply with the procedures
18 provided by Sections 60.074 and 60.075, Water Code.

19 Revisor's Note

20 Section 4C(b), Chapter 397, Acts of the 68th
21 Legislature, Regular Session, 1983, refers to a "duly
22 constituted peace officer." The revised law
23 substitutes "licensed" for "duly constituted" to
24 conform to the terminology used in Subchapter G,
25 Chapter 1701, Occupations Code, which regulates the
26 licensing of peace officers.

27 Revised Law

28 Sec. 5016.0104. CONTRACTS FOR SECURITY AND LAW ENFORCEMENT
29 SERVICES. (a) The authority may enter into an interlocal agreement
30 with this state or a county, municipality, or other political
31 subdivision of this state to jointly provide, and share the costs
32 of, security for the ship channels and waterways in the authority's
33 jurisdiction.

34 (b) To protect the public interest, the authority may
35 contract with a qualified party, including the federal government,
36 Nueces County, or San Patricio County, for the provision of law
37 enforcement services in all or part of the authority's
38 jurisdiction. (Acts 68th Leg., R.S., Ch. 397, Secs. 4C(d), (e).)

39 Source Law

40 (d) The authority may enter into an interlocal
41 agreement with this state or a county, municipality,
42 or other political subdivision of this state to
43 jointly provide, and share the costs of, security for
44 the ship channels and waterways in the jurisdiction of
45 the authority.

46 (e) To protect the public interest, the

1 authority may contract with a qualified party,
2 including the federal government, Nueces County, or
3 San Patricio County, for the provision of law
4 enforcement services in all or part of the
5 jurisdiction of the authority.

6 Revisor's Note
7 (End of Chapter)

8 (1) Section 5, Chapter 397, Acts of the 68th
9 Legislature, Regular Session, 1983, provides that the
10 act is severable. The revised law omits that provision
11 because the same result is produced by application of
12 Section 311.032, Government Code (Code Construction
13 Act), which provides that a provision of a statute is
14 severable from each other provision of the statute
15 that can be given effect. The omitted law reads:

16 Sec. 5. If a provision of this Act or
17 its application to any person or
18 circumstance is held invalid, the
19 invalidity does not affect other provisions
20 or applications of this Act that can be
21 given effect without the invalid provision
22 or application, and to this end, the
23 provisions of this Act are declared to be
24 severable.

25 (2) Sections 1, 2, and 3, Chapter 1334, Acts of
26 the 78th Legislature, Regular Session, 2003, provide
27 provisions relating to the annexation of San Patricio
28 County to the authority. Section 1 defines certain
29 terms for purposes of Chapter 1334. Section 2 requires
30 the holding of an election on the question of
31 annexation of San Patricio County and prescribes
32 certain actions to be taken in the event the vote is in
33 favor of or against annexation. Section 3 provides
34 transition provisions relating to the terms of office
35 of the port commissioners serving at the time of the
36 election and immediately following the election.
37 Because the election confirming the annexation of San
38 Patricio County has been held and the county has been
39 annexed to the authority, the revised law omits the
40 provisions as executed. The omitted law reads:

41 Sec. 1. In this Act:

1 (1) "Authority" means the Port
2 of Corpus Christi Authority of Nueces
3 County, Texas.

4 (2) "Commissioners court" means
5 the Commissioners Court of San Patricio
6 County.

7 (3) "Port commission" means the
8 port commission of the Port of Corpus
9 Christi Authority of Nueces County, Texas.

10 Sec. 2. (a) On a uniform election
11 date in 2003, the commissioners court shall
12 call and hold an election in San Patricio
13 County to allow for voting for or against
14 the proposition: "Annexation of San
15 Patricio County to the Port of Corpus
16 Christi Authority of Nueces County, Texas."

17 (b) The commissioners court shall
18 conduct the election as provided by
19 Sections 62.296 and 62.298, Water Code,
20 performing all the duties of the commission
21 of the annexing district provided by those
22 sections.

23 (c) The commissioners court shall
24 canvass the returns of the election and
25 certify the election result to the port
26 commission.

27 (d) If a majority of the voters
28 voting at the election favor the annexation
29 of San Patricio County, the port commission
30 shall enter and have recorded an order of
31 annexation as provided by Sections
32 62.299(c) and (d), Water Code.

33 (e) If the annexation of San Patricio
34 County is not approved at the election held
35 under Subsection (a) of this section,
36 another confirmation election may be held
37 not sooner than five years after the date of
38 the first confirmation election.
39 Confirmation elections may be held every
40 five years until the annexation of San
41 Patricio County is approved.

42 (f) Except as provided by this
43 section, a confirmation election must be
44 conducted as provided by the Election Code.

45 Sec. 3. If the annexation of San
46 Patricio County is approved at an election
47 held under Section 2 of this Act:

48 . . .
49 (3) the commissioners serving
50 at the time the annexation of San Patricio
51 County is approved continue to serve,
52 unless otherwise removed as provided by
53 law, until the expiration of their terms;
54 and

55 (4) following the annexation of
56 San Patricio County, the Commissioners
57 Court of San Patricio County shall appoint
58 one member to the port commission to fill
59 the first vacancy created by the expiration
60 of the term of a commissioner appointed by
61 the Commissioners Court of Nueces County.

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30		COUNTY, TEXAS	
31		SUBCHAPTER A. GENERAL PROVISIONS	
32		<u>Revised Law</u>	
33	Sec. 5018.0001.	DEFINITIONS. In this chapter:	
34	(1)	"Board" means the district's board of	

1 commissioners.

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

3 (3) "District" means the Orange County Navigation and
4 Port District of Orange County, Texas. (Acts 53rd Leg., R.S., Ch.
5 370, Sec. 1 (part); New.)

6 Source Law

7 Sec. 1. . . . [a District] to be known as Orange
8 County Navigation and Port District of Orange County,
9 Texas, . . . (hereinafter called the District). . . .

10 Revisor's Note

11 The revised law adds the definitions of "board"
12 and "commissioner" for drafting convenience and to
13 avoid frequent, unnecessary repetition of the
14 substance of the definitions.

15 Revised Law

16 Sec. 5018.0002. FINDINGS OF BENEFIT AND PURPOSE. (a) The
17 creation of the district is essential to accomplish the purposes of
18 Section 59, Article XVI, Texas Constitution, including, to the
19 extent authorized by this chapter:

20 (1) the supervision, maintenance, development,
21 extension, and improvement of navigation in the district;

22 (2) the maintenance, development, extension, and
23 improvement of port facilities and dock facilities in the district;
24 and

25 (3) the development of the Port of Orange in the
26 district.

27 (b) The district:

28 (1) is essential to the general welfare of this state
29 for the development of maritime shipping to and from the state's
30 ports;

31 (2) is in the interest of national defense, the Port of
32 Orange being strategically located on the Gulf Coast with an
33 inland-protected harbor and in a rapidly developing industrial area
34 in which shipyards and ship-storing basins are located; and

35 (3) will result in:

1 (A) material benefits and improvements to
2 district territory;

3 (B) the increase of the taxable value of property
4 in the district; and

5 (C) material benefit to that part of the state in
6 which the district is located.

7 (c) All property in the district and in this state will
8 benefit from the district and the improvements and facilities
9 acquired or constructed under this chapter. (Acts 53rd Leg., R.S.,
10 Ch. 370, Sec. 1 (part); Acts 55th Leg., R.S., Ch. 80, Sec. 4.)

11 Source Law

12 [Acts 53rd Leg., R.S., Ch. 370]
13 Sec. 1. There is hereby created within the State
14 of Texas, in addition to the Districts into which the
15 State has heretofore been divided, a District [to be
16 known as Orange County Navigation and Port District of
17 Orange County, Texas,] Such District shall be
18 and is hereby declared to be a governmental agency and
19 body politic and corporate . . . the creation of such
20 District is hereby determined to be essential to the
21 accomplishment of the purpose of Section 59 of Article
22 16 of the Constitution of the State of Texas including
23 (to the extent hereinafter authorized) the supervision
24 and the improvement of navigation and the maintenance,
25 development, extension and improvement of navigation
26 and the maintenance, development, extension and
27 improvement of port facilities, dock facilities and
28 the development of Port Orange within the boundaries
29 thereof as hereby established, which is declared to be
30 essential to the general welfare of the State of Texas
31 for the development of maritime shipping to and from
32 its ports, and in the interest of national defense; the
33 port of Orange being strategically located on the gulf
34 coast with an inland-protected harbor and in a rapidly
35 developing industrial area wherein shipyards and
36 ship-storing basins are located, and the creation of
37 said District will result in material benefits and
38 improvements to the territory included therein and in
39 the increase of taxable values of property included
40 therein, and result in material benefit to that
41 section of the State in which the District is located.
42 . . .

43 [Acts 55th Leg., R.S., Ch. 80]
44 Sec. 4. It is hereby found that all property,
45 both real and personal, within the District and within
46 the State of Texas is benefited by said District and
47 will be benefited by the improvements and facilities
48 to be acquired or constructed under the provisions of
49 this Act.

50 Revisor's Note

51 (1) Section 1, Chapter 370, Acts of the 53rd
52 Legislature, Regular Session, 1953, provides that the

1 district is "hereby created within the State of Texas,
2 in addition to the Districts into which the State has
3 heretofore been divided." The revised law omits the
4 reference to the district being "hereby created" as
5 executed. The revised law omits the reference to the
6 district's creation "within the State of Texas, in
7 addition to the Districts into which the State has
8 heretofore been divided" because the absence of the
9 language does not imply that the legislature could
10 create a district outside its jurisdiction or that the
11 district is not in addition to any other districts.

12 (2) Section 1, Chapter 370, Acts of the 53rd
13 Legislature, Regular Session, 1953, provides that the
14 district is "a governmental agency and body politic
15 and corporate." The revised law omits the quoted
16 language because it duplicates a portion of Section
17 59(b), Article XVI, Texas Constitution, which provides
18 that a district created under that section is a
19 governmental agency and a body politic and corporate.

20 (3) Section 1, Chapter 370, Acts of the 53rd
21 Legislature, Regular Session, 1953, refers to "Port
22 Orange" and the "port of Orange." The revised law
23 refers to the "Port of Orange" for consistency in
24 terminology throughout this chapter.

25 (4) Section 4, Chapter 80, Acts of the 55th
26 Legislature, Regular Session, 1957, refers to
27 "property, both real and personal." The revised law
28 omits the reference to "both real and personal"
29 because under Section 311.005(4), Government Code
30 (Code Construction Act), "property" means "real and
31 personal property."

32 Revised Law

33 Sec. 5018.0003. DISTRICT TERRITORY. (a) The district's
34 boundaries are coextensive with the boundaries of Orange County,

1 unless the district's territory has been modified under:

2 (1) Section 3 or 3a, Chapter 103, Acts of the 41st
3 Legislature, 1st Called Session, 1929 (Article 8263a, Vernon's
4 Texas Civil Statutes), before August 30, 1971;

5 (2) Subchapter H, Chapter 62, Water Code; or

6 (3) other law.

7 (b) The district includes all of the property within the
8 district's boundaries. (Acts 53rd Leg., R.S., Ch. 370, Sec. 1
9 (part); New.)

10 Source Law

11 Sec. 1. . . . [Orange County Navigation and
12 Port District of Orange County, Texas,] situated in
13 Orange County, Texas, with boundaries as hereinafter
14 set out

15 The boundaries of said District shall be
16 coextensive with the boundaries of Orange County,
17 Texas, and said District shall include all of the lands
18 and other property, both real and personal, within the
19 boundaries of said District.

20 Revisor's Note

21 (1) Section 1, Chapter 370, Acts of the 53rd
22 Legislature, Regular Session, 1953, contains a
23 description of the district's territory. That
24 description may not be accurate on the effective date
25 of the revised law or at the time of a later reading
26 because the district's boundaries are subject to
27 change. For the reader's convenience, the revised law
28 includes a reference to authority to change the
29 district's territory under general law. This
30 authority was formerly located in Sections 3 and 3a,
31 Chapter 103, Acts of the 41st Legislature, 1st Called
32 Session, 1929 (Article 8263a, Vernon's Texas Civil
33 Statutes). Chapter 58, Acts of the 62nd Legislature,
34 Regular Session, 1971, which took effect August 30,
35 1971, codified those provisions in Subchapter H,
36 Chapter 62, Water Code. The revised law also includes
37 a reference to the general authority of the
38 legislature to enact other laws to change the

1 district's territory.

2 (2) Section 1, Chapter 370, Acts of the 53rd
3 Legislature, Regular Session, 1953, refers to "lands
4 and other property, both real and personal." The
5 revised law omits the reference to "lands" because
6 "lands" is included in the meaning of "property." The
7 revised law omits the reference to "both real and
8 personal" for the reason stated in Revisor's Note (4)
9 to Section 5018.0002.

10 Revised Law

11 Sec. 5018.0004. LIBERAL CONSTRUCTION OF CHAPTER. This
12 chapter shall be liberally construed to effect its purposes. (Acts
13 53rd Leg., R.S., Ch. 370, Sec. 19.)

14 Source Law

15 Sec. 19. This Act and all the terms and
16 provisions hereof shall be liberally construed to
17 effectuate the purposes set forth herein.

18 SUBCHAPTER B. DISTRICT ADMINISTRATION

19 Revised Law

20 Sec. 5018.0051. BOARD OF COMMISSIONERS; TERM; ELECTION.

21 (a) The district is governed by a board composed of five elected
22 commissioners.

23 (b) Commissioners serve staggered four-year terms.

24 (c) The district shall hold an election in the district on
25 the uniform election date in May of each even-numbered year to elect
26 commissioners.

27 (d) The board has the rights and powers conferred and
28 imposed on navigation and canal commissioners and commissioners
29 courts by Chapter 62, Water Code. (Acts 53rd Leg., R.S., Ch. 370,
30 Secs. 3 (part), 8(a) (part), (c).)

31 Source Law

32 Sec. 3. The management and control of said
33 District is hereby vested in a Board of Commissioners,
34 which shall be composed of five (5) persons,
35 Said Board of Commissioners shall have and exercise
36 the rights, powers, and authority conferred and
37 imposed upon navigation and canal commissioners and
38 commissioners' courts by Chapter 5, Acts of the

1 Thirty-ninth Legislature of Texas, 1925 (Article
2 8263h, Vernon's Texas Civil Statutes), as the same is
3 now or hereafter may be amended, and

4 Sec. 8. (a) The District shall hold an election
5 in the District on the first Saturday of May in each
6 even-numbered year for the election of five (5)
7 Commissioners,

8 (c) Except as provided by Subsection (d) of this
9 section, the Commissioners serve staggered four-year
10 terms.

11 Revisor's Note

12 (1) Section 3, Chapter 370, Acts of the 53rd
13 Legislature, Regular Session, 1953, provides that
14 "management and control of said District is hereby
15 vested in" the board. The revised law substitutes "is
16 governed by" for the quoted language because in
17 context the phrases have the same meaning and the
18 latter phrase is more consistent with modern usage.

19 (2) Section 3, Chapter 370, Acts of the 53rd
20 Legislature, Regular Session, 1953, refers to the
21 board's "powers" and "authority." The revised law
22 omits the reference to "authority" because, in
23 context, "authority" is included in the meaning of
24 "powers."

25 (3) Section 3, Chapter 370, Acts of the 53rd
26 Legislature, Regular Session, 1953, refers to "Chapter
27 5, Acts of the Thirty-ninth Legislature of Texas, 1925
28 (Article 8263h, Vernon's Texas Civil Statutes), as the
29 same is now or hereafter may be amended." Chapter 5,
30 General Laws, Acts of the 39th Legislature, Regular
31 Session, 1925, was set out in the Revised Civil
32 Statutes of 1925, following Article 8263, as
33 additional legislation. Chapter 5 was not assigned a
34 specific article number, but for purposes of clarity,
35 West Group, a private legal publisher, supplied an
36 unofficial citation and designated Chapter 5 as
37 Article 8263h of those statutes published under the
38 title Vernon's Texas Civil Statutes. Article 8263h,

1 Vernon's Texas Civil Statutes, was subsequently
2 codified as part of Chapter 62, Water Code, by Chapter
3 58, Acts of the 62nd Legislature, Regular Session,
4 1971. Consequently, the revised law substitutes a
5 reference to Chapter 62, Water Code. Although Chapter
6 62, Water Code, includes provisions that were not part
7 of Article 8263h, the reference to Chapter 62, Water
8 Code, is nevertheless appropriate because Section 2,
9 Chapter 370, Acts of the 53rd Legislature, Regular
10 Session, 1953 (revised in pertinent part in this
11 chapter as Section 5018.0101), provides that the
12 district has all powers, rights, privileges, and
13 functions conferred by general law on navigation
14 districts created or operating under Section 59,
15 Article XVI, Texas Constitution, and Chapter 62, Water
16 Code, is such a general law.

17 The revised law omits the reference to "as the
18 same is now or hereafter may be amended" as
19 unnecessary. Section 311.027, Government Code (Code
20 Construction Act), applicable to the revised law,
21 states that a reference to a statute includes all
22 reenactments, revisions, or amendments of that
23 statute.

24 (4) Section 8(a), Chapter 370, Acts of the 53rd
25 Legislature, Regular Session, 1953, as amended by
26 Chapter 723, Acts of the 71st Legislature, Regular
27 Session, 1989, requires commissioners' elections to be
28 held on the "first Saturday of May." From 1987 to
29 2003, Section 41.001, Election Code, provided for a
30 uniform election date for all political subdivisions
31 on the first Saturday in May. In Chapter 1315, Acts of
32 the 78th Legislature, Regular Session, 2003, the
33 legislature amended Section 41.001 by moving the
34 uniform election date in May to the third Saturday. In

1 Chapter 1, Acts of the 78th Legislature, 3rd Called
2 Session, 2003, the legislature amended Section 41.001
3 by moving the uniform election date in May back to the
4 first Saturday. In Chapter 471, Acts of the 79th
5 Legislature, Regular Session, 2005, the legislature
6 amended Section 41.001 by moving the uniform election
7 date in May to the second Saturday. In Chapter 558,
8 Acts of the 84th Legislature, Regular Session, 2015,
9 the legislature amended Section 41.001 by again moving
10 the uniform election date in May back to the first
11 Saturday. The revised law substitutes "uniform
12 election date in May" for "first Saturday of May" to
13 reflect those changes and to preserve the legislative
14 intent expressed in the 1989 amendment to Section 8(a)
15 that the election be held on a uniform election date in
16 May.

17 (5) Section 8(c), Chapter 370, Acts of the 53rd
18 Legislature, Regular Session, 1953, provides that
19 commissioners serve staggered terms of four years,
20 "[e]xcept as provided by Subsection (d) of this
21 section." The revised law omits the quoted language as
22 unnecessary because Section 8(d), Chapter 370, Acts of
23 the 53rd Legislature, Regular Session, 1953, to which
24 the quoted language refers, is omitted from the
25 revised law for the reason stated in Revisor's Note (6)
26 to this section.

27 (6) Section 8(d), Chapter 370, Acts of the 53rd
28 Legislature, Regular Session, 1953, contains
29 transition language regarding commissioners'
30 elections for the years 1990 and 1992 and the terms of
31 office of the commissioners elected at those
32 elections. Section 8(d) also establishes a pattern
33 under which two specific positions on the board are
34 elected in 1992 and every fourth year thereafter, and

1 the remaining three specific positions are elected in
2 1994 and every fourth year thereafter. The revised law
3 omits the language related to the 1990 and 1992
4 elections as executed because the elections have been
5 held and the terms of office of those commissioners
6 have expired. To the extent the omitted language
7 establishes a pattern under which specific positions
8 are on the ballot, retaining the language is
9 unnecessary because Section 8(c), Chapter 370, Acts of
10 the 53rd Legislature, Regular Session, 1953, revised
11 in this chapter as Section 5018.0051(b), requires that
12 the commissioners serve staggered four-year terms;
13 accordingly, the district must hold elections
14 following that established pattern. The omitted law
15 reads:

16 (d) In the District's 1990
17 Commissioner's election, the persons
18 elected to represent Precinct Two (2) and
19 Precinct Three (3) serve two-year terms.
20 The persons elected to represent Precinct
21 One (1), Precinct Four (4), and the District
22 at large serve four-year terms. In the
23 District's 1992 Commissioner's election,
24 the persons elected to represent Precinct
25 Two (2) and Precinct Three (3) serve
26 four-year terms.

27 Revised Law

28 Sec. 5018.0052. COMPOSITION OF BOARD; QUALIFICATIONS. (a)
29 One commissioner must reside in each county commissioners precinct
30 of Orange County and one commissioner must reside in the county at
31 large.

32 (b) Each commissioner must:

- 33 (1) be a qualified voter of the district; and
34 (2) own taxable real property located in the district.

35 (c) The candidates receiving the highest number of votes
36 from each county commissioners precinct and the county at large
37 shall be declared elected. (Acts 53rd Leg., R.S., Ch. 370, Secs. 3
38 (part), 8(a) (part).)

1 Board of Commissioners in the order calling the
2 election, provided however, that at least one voting
3 box will be established and set in each of the
4 Commissioners' precincts.

5 Revisor's Note

6 (1) Section 17, Chapter 370, Acts of the 53rd
7 Legislature, Regular Session, 1953, refers to an
8 election "called and held." Throughout this chapter,
9 the revised law omits references to calling an
10 election or other similar language because under
11 Chapter 3, Election Code, all elections must be
12 ordered (called) before they may be held.

13 (2) Section 17, Chapter 370, Acts of the 53rd
14 Legislature, Regular Session, 1953, refers to "boxes"
15 and a "voting box." The revised law substitutes
16 "polling places" and "polling place" for the quoted
17 language because, in context, the meanings of the
18 terms are the same and "polling place" is more commonly
19 used.

20 (3) Section 17, Chapter 370, Acts of the 53rd
21 Legislature, Regular Session, 1953, provides that the
22 number and location of boxes or voting boxes shall be
23 "established and set" by the board. The revised law
24 substitutes "designate" for the quoted language to
25 conform to the language used in Chapter 43, Election
26 Code.

27 Revised Law

28 Sec. 5018.0054. COMMISSIONER'S OATH AND BOND. Not later
29 than the 10th day after the date of the commissioner's election,
30 each commissioner shall:

31 (1) take and subscribe an oath of office with
32 conditions in the oath as provided by law for members of the county
33 commissioners court; and

34 (2) enter into a good and sufficient bond in the amount
35 of \$1,000 payable to the district, conditioned on the faithful
36 performance of the commissioner's duties as a commissioner. (Acts

1 53rd Leg., R.S., Ch. 370, Sec. 13.)

2 Source Law

3 Sec. 13. Each of the Commissioners within ten
4 (10) days after his election, shall take and subscribe
5 an oath of office with conditions therein as provided
6 by law for members of the County Commissioners' Court,
7 and enter into a good and sufficient bond in the sum of
8 One Thousand Dollars (\$1,000) payable to the District,
9 conditioned upon his faithful performance of his
10 duties.

11 Revised Law

12 Sec. 5018.0055. COMPENSATION OF COMMISSIONERS; EXPENSES.

13 (a) At the first meeting after each election, the commissioners by
14 order shall set the amount of compensation to be received by a
15 commissioner for each day served, not to exceed \$600 per year, plus
16 actual traveling expenses.

17 (b) Each month or as soon as practicable following each
18 month, each commissioner shall file with the district's secretary a
19 statement showing the amount owed to the commissioner. A check may
20 not be issued to the commissioner until the commissioner has filed
21 the statement with the secretary. (Acts 53rd Leg., R.S., Ch. 370,
22 Sec. 10.)

23 Source Law

24 Sec. 10. The Commissioners shall by order at the
25 first meeting after each election set and establish
26 the compensation to be received by each Commissioner
27 for his services, for each day served, provided that
28 such compensation shall not exceed Six Hundred Dollars
29 (\$600.00) per year, plus actual traveling expenses.
30 Each Commissioner shall file with the Secretary a
31 statement showing the amount due him each month or as
32 soon thereafter as practicable, and before a check
33 shall be issued therefor.

34 Revisor's Note

35 Section 10, Chapter 370, Acts of the 53rd
36 Legislature, Regular Session, 1953, provides that the
37 commissioners shall "set and establish" the
38 compensation of commissioners. The revised law omits
39 "establish" because, in context, "establish" is
40 included in the meaning of "set."

41 Revised Law

42 Sec. 5018.0056. VACANCIES. (a) A vacancy on the board

1 shall be filled by board appointment until the next commissioners'
2 election. If the vacant position is not regularly scheduled to be
3 filled at that election, the person elected to fill the position
4 serves only for the remainder of the unexpired term.

5 (b) A person appointed under this section must have the same
6 qualifications as a person elected to the board. (Acts 53rd Leg.,
7 R.S., Ch. 370, Sec. 8(e).)

8 Source Law

9 (e) All vacancies on the Board of Commissioners
10 shall be filled by appointment of the Board until the
11 next Commissioner's election, and a person so
12 appointed shall possess the same qualifications as a
13 person elected to such office. If the vacant position
14 is not regularly scheduled to be filled at the next
15 Commissioner's election, the person elected to fill
16 the vacancy serves only for the remainder of the
17 unexpired term.

18 Revised Law

19 Sec. 5018.0057. OFFICERS AND EMPLOYEES. (a) As soon as
20 practicable after each election of commissioners, the board shall
21 elect a president, vice president, and secretary and treasurer.

22 (b) The board may:

23 (1) employ a port director and other officers as
24 required to manage and operate the district and, subject to the
25 board's orders, delegate that authority;

26 (2) employ and prescribe the duties of officers,
27 agents, and employees;

28 (3) set the compensation of officers, agents, and
29 employees; and

30 (4) remove any employee. (Acts 53rd Leg., R.S., Ch.
31 370, Secs. 2 (part), 7, 11 (part).)

32 Source Law

33 Sec. 2. . . . Without limitation of the
34 generality of the foregoing, the District shall have
35 and is hereby authorized to exercise the following
36 powers, rights, privileges, and functions:

37 . . .
38 (f) To employ officers, agents and employees, to
39 prescribe their duties and to fix their compensation.
40 . . .

41 Sec. 7. As soon as practicable after the
42 election of the first Board of Commissioners, and as

1 soon as practicable after the election of each
2 succeeding Board of Commissioners, there shall be
3 elected by the Board a President, Vice-President, and
4 Secretary and Treasurer of the District to serve
5 during the tenure of office of the Board of
6 Commissioners so electing such officers.

7 Sec. 11. The Commissioners may employ a port
8 director and/or such other officers as may be required
9 for the management and operation of the District and
10 may delegate such authority subject to the orders of
11 the Board of Commissioners. Compensation to be paid
12 such officials and all employees shall be fixed by the
13 Board of Commissioners and all employees may be
14 removed by the Board.
15 . . .

16 Revisor's Note

17 (1) Section 2, Chapter 370, Acts of the 53rd
18 Legislature, Regular Session, 1953, states that,
19 "[w]ithout limitation of the generality of the
20 foregoing," the district has certain powers.
21 Throughout this chapter, the revised law omits the
22 quoted or similar language because it is an accepted
23 general principle of statutory construction that a
24 grant of a power does not act as a limitation.
25 Additionally, Section 311.021(2), Government Code
26 (Code Construction Act), provides that it is presumed
27 that, in enacting a statute, the entire statute is
28 intended to be effective.

29 (2) Section 2, Chapter 370, Acts of the 53rd
30 Legislature, Regular Session, 1953, provides that the
31 district "shall have and is hereby authorized to
32 exercise" certain powers, rights, privileges, and
33 functions. Throughout this chapter, the revised law
34 substitutes "has" or "may" for the quoted language
35 because, in context, the language is synonymous, and
36 "has" and "may" are more commonly used.

37 (3) Section 2(f), Chapter 370, Acts of the 53rd
38 Legislature, Regular Session, 1953, provides that the
39 district has the authority to "fix" the compensation
40 of officers, agents, and employees employed by the
41 district. Section 11, Chapter 370, Acts of the 53rd

1 Legislature, Regular Session, 1953, provides that the
2 compensation of the district officials and employees
3 shall be "fixed" by the board. The revised law
4 substitutes "set" for "fix" and "fixed" because the
5 terms are synonymous in this context and "set" is more
6 commonly used.

7 (4) Section 7, Chapter 370, Acts of the 53rd
8 Legislature, Regular Session, 1953, requires the board
9 to elect officers "[a]s soon as practicable after the
10 election of the first Board of Commissioners." The
11 revised law omits the quoted language as executed.

12 (5) Section 7, Chapter 370, Acts of the 53rd
13 Legislature, Regular Session, 1953, refers to "each
14 succeeding Board of Commissioners" to distinguish
15 between succeeding boards of commissioners and the
16 initial board of commissioners referred to in that
17 section. The revised law omits "succeeding" because
18 all provisions referring to the initial board are
19 omitted as executed and the distinction is no longer
20 required.

21 Revised Law

22 Sec. 5018.0058. OFFICER'S OR EMPLOYEE'S SURETY BOND. (a) A
23 bond required of a district officer or employee must be executed by
24 a surety company authorized to do business in this state as surety
25 on the bond.

26 (b) The district may pay the premium on the bond. (Acts 53rd
27 Leg., R.S., Ch. 370, Sec. 11 (part).)

28 Source Law

29 Sec. 11. . . .
30 All bonds required to be given by officers and
31 employees of the District shall be executed by a surety
32 company authorized to do business in the State as
33 surety thereon, and the District shall be authorized
34 to pay the premium on such bonds.

35 Revised Law

36 Sec. 5018.0059. DISTRICT OFFICE. A regular office shall be

1 established and maintained for conducting district business in the
2 district's territory. (Acts 53rd Leg., R.S., Ch. 370, Sec. 9
3 (part).)

4 Source Law

5 Sec. 9. . . . A regular office shall be
6 established and maintained for conduct of the District
7 business within the District.

8 Revised Law

9 Sec. 5018.0060. CONFLICT OF INTEREST; CRIMINAL PENALTY.

10 (a) A district commissioner, engineer, or employee, personally or
11 as an agent for another person, may not benefit directly or
12 indirectly from a sale, purchase, or contract entered into by the
13 board.

14 (b) A person commits an offense if the person violates this
15 section. An offense under this subsection is a misdemeanor
16 punishable by:

17 (1) a fine not to exceed \$1,000;

18 (2) confinement in the county jail for not less than
19 six months or more than one year; or

20 (3) both the fine and confinement. (Acts 53rd Leg.,
21 R.S., Ch. 370, Sec. 11 (part).)

22 Source Law

23 Sec. 11. . . .
24 No Commissioner, engineer or employee of the
25 District, either for themselves or as agent for anyone
26 else, shall benefit directly or indirectly by reason
27 of any sale, purchase or contract entered into by the
28 Board. If any such person shall directly or indirectly
29 become interested in any such contract, sale, or
30 purchase, he shall be guilty of a misdemeanor and upon
31 conviction thereof shall be punished by a fine in any
32 sum of not to exceed One Thousand Dollars (\$1,000) or
33 by confinement in the county jail for not less than six
34 (6) months nor more than one (1) year or by both fine
35 and imprisonment.

36 . . .

37 Revisor's Note
38 (End of Subchapter)

39 (1) Section 8(b), Chapter 370, Acts of the 53rd
40 Legislature, Regular Session, 1953, provides that all
41 elections for commissioners shall be called by the
42 board of commissioners. The revised law omits that

1 provision as unnecessary because it duplicates in
2 substance Section 3.004(a)(3), Election Code,
3 applicable to the district under Sections 1.002 and
4 3.001, Election Code, which provides that the
5 governing body of a political subdivision that has
6 elective offices shall order the general election for
7 those officers. The omitted law reads:

8 (b) All elections for Commissioners
9 shall be called by the Board of
10 Commissioners, and

11 (2) Section 8(b), Chapter 370, Acts of the 53rd
12 Legislature, Regular Session, 1953, provides that the
13 board shall canvass the election returns and declare
14 the results of elections of commissioners. The
15 revised law omits that provision as superseded by the
16 1985 enactment of the Election Code, applicable to the
17 district under Section 1.002, Election Code. Chapter
18 67, Election Code, provides for the canvass of
19 elections. The omitted law reads:

20 (b) . . . said Board shall also
21 canvass the election returns and declare
22 the results of such election, and

23 (3) Section 8(b), Chapter 370, Acts of the 53rd
24 Legislature, Regular Session, 1953, provides for the
25 eligibility of voters to vote in a commissioners'
26 election. The revised law omits that provision
27 because Chapter 11, Election Code, applicable to the
28 district under Section 1.002, Election Code, governs
29 eligibility to vote in an election in this state and
30 allows only qualified voters who are residents of the
31 territory covered by the election to vote in an
32 election. The omitted law reads:

33 (b) . . . all duly qualified resident
34 electors of the District shall be qualified
35 to vote in such elections.

36 (4) Section 8(f), Chapter 370, Acts of the 53rd
37 Legislature, Regular Session, 1953, provides that,

1 except as provided by that section, a commissioners'
2 election is governed by the Election Code. The revised
3 law omits that provision because Section 1.002,
4 Election Code, provides that the Election Code applies
5 to all elections held in this state. An exception to
6 the application of the Election Code would apply by its
7 own terms. The omitted law reads:

8 (f) Except as provided by this
9 section, a Commissioner's election is
10 governed by the Election Code.

11 SUBCHAPTER C. POWERS AND DUTIES

12 Revised Law

13 Sec. 5018.0101. GENERAL AND NAVIGATION DISTRICT POWERS.

14 The district has:

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

18 (2) all powers, rights, privileges, and functions
19 conferred by general law, including Chapter 62, Water Code, on any
20 navigation district created or operating under Section 59, Article
21 XVI, Texas Constitution. (Acts 53rd Leg., R.S., Ch. 370, Secs. 1
22 (part), 2 (part), 3 (part).)

23 Source Law

24 Sec. 1. . . . Such District . . . with the
25 powers of government and with the authority to
26 exercise the rights, privileges and functions
27 hereinafter specified, and

28 Sec. 2. Except as expressly limited by this Act,
29 the District shall have and is hereby authorized to
30 exercise all powers, rights, privileges, and functions
31 which are now, or hereafter may be, conferred by
32 general law upon any navigation district or districts
33 created pursuant to, or operating under, Section 59,
34 Article 16, Constitution of Texas. . . .

35 Sec. 3. . . . [Chapter 5, Acts of the
36 Thirty-ninth Legislature of Texas, 1925 (Article
37 8263h, Vernon's Texas Civil Statutes)] . . . said
38 Chapter 5 shall in all ways apply to the District
39 except as the same may be in conflict or inconsistent
40 with the provisions of this Act, in which event or
41 events the provisions of this Act shall control. . . .

42 Revisor's Note

43 (1) Section 2, Chapter 370, Acts of the 53rd

1 Legislature, Regular Session, 1953, provides that
2 "[e]xcept as expressly limited by this Act," the
3 district has all powers, rights, privileges, and
4 functions "which are now, or hereafter may be"
5 conferred on navigation districts by general law.
6 Section 3, Chapter 370, Acts of the 53rd Legislature,
7 Regular Session, 1953, provides that certain
8 provisions of general law apply to the district
9 "except as the same may be in conflict or inconsistent
10 with the provisions of this Act, in which event or
11 events the provisions of this Act shall control." The
12 revised law omits the quoted provisions because they
13 are both unnecessary and potentially misleading. To
14 the extent the provisions mean that the act prevails
15 over other law in existence at the time the act became
16 effective and with which the act conflicts, the
17 provisions merely restate general rules of statutory
18 construction, and any limitations expressed in the act
19 would apply by their own terms. To the extent the
20 provisions mean the act prevails over future
21 enactments of the legislature that may conflict with
22 it, the provisions are misleading. It is a fundamental
23 principle of statutory construction that one session
24 of the legislature may not bind a future session of the
25 legislature. In addition, Section 311.026, Government
26 Code (Code Construction Act), governs the
27 interpretation of the revised law in instances of
28 apparent conflict with other laws.

29 (2) Section 3, Chapter 370, Acts of the 53rd
30 Legislature, Regular Session, 1953, refers to "said
31 Chapter 5," meaning Chapter 5, General Laws, Acts of
32 the 39th Legislature, Regular Session, 1925. The
33 revised law substitutes a reference to Chapter 62,
34 Water Code, for the quoted language for the reason

1 stated in Revisor's Note (3) to Section 5018.0051.

2 Revised Law

3 Sec. 5018.0102. POWERS REGARDING WHARVES, DOCKS, AND OTHER
4 FACILITIES. The district may:

5 (1) acquire, take over, construct, maintain, repair,
6 operate, develop, and regulate wharves, docks, warehouses, grain
7 elevators, dumping facilities, belt railways, lands, and other
8 facilities or aids consistent with or necessary to the operation or
9 development of ports or waterways in the district; and

10 (2) construct, extend, improve, repair, maintain, and
11 reconstruct, cause to be constructed, extended, improved,
12 repaired, maintained, and reconstructed, and own, rent, lease, use,
13 and operate any facility of any kind necessary or convenient to the
14 exercise of the powers, rights, privileges, and functions granted
15 by this chapter. (Acts 53rd Leg., R.S., Ch. 370, Sec. 2 (part).)

16 Source Law

17 Sec. 2. . . . the District shall have and is
18 hereby authorized to exercise the following powers,
19 rights, privileges, and functions:

20 (a) The right, power and authority to acquire,
21 purchase, take over, construct, maintain, repair,
22 operate, develop and regulate wharves, docks,
23 warehouses, grain elevators, dumping facilities, belt
24 railways, lands and all other facilities or aids
25 consistent to or necessary to the operation or
26 development of ports or waterways within the District;
27 and

28 (b) To construct, extend, improve, repair,
29 maintain, and reconstruct, cause to be constructed,
30 extended, improved, repaired, maintained and
31 reconstructed, and to own, rent, lease, use and
32 operate any and all facilities of any kind necessary or
33 convenient to the exercise of such powers, rights,
34 privileges and functions, as are herein granted.

35 . . .

36 Revisor's Note

37 Section 2(a), Chapter 370, Acts of the 53rd
38 Legislature, Regular Session, 1953, grants the
39 district the power to "acquire" and "purchase" certain
40 property. The revised law omits the reference to
41 "purchase" because "purchase" is included in the
42 meaning of "acquire."

1 Revised Law

2 Sec. 5018.0103. LIMITATION ON CERTAIN POWERS. This chapter
3 may not be construed as granting the district or the board any power
4 over the appointment, operations, or conduct of:

5 (1) a branch pilot appointed under Section 69.037,
6 Transportation Code; or

7 (2) the board of pilot commissioners described by
8 Section 69.011, Transportation Code. (Acts 53rd Leg., R.S., Ch.
9 370, Sec. 2(j) (part).)

10 Source Law

11 (j) Nothing contained in this Act shall be
12 construed as granting the District or the Board of
13 Commissioners thereof any power or authority over the
14 appointment, operations, or conduct of the Branch
15 Pilots of the Sabine Bar and the Pilots Commission of
16 the Sabine Bar,

17 Revisor's Note

18 (1) Section 2(j), Chapter 370, Acts of the 53rd
19 Legislature, Regular Session, 1953, refers to the
20 district's or board's "power or authority." The
21 revised law omits the reference to "authority" for the
22 reason stated in Revisor's Note (2) to Section
23 5018.0051.

24 (2) Section 2(j), Chapter 370, Acts of the 53rd
25 Legislature, Regular Session, 1953, refers to "the
26 Branch Pilots of the Sabine Bar and the Pilots
27 Commission of the Sabine Bar." Chapter 745, Acts of
28 the 78th Legislature, Regular Session, 2003, amended
29 Chapter 69, Transportation Code, to provide for a
30 specific board of pilot commissioners for all of the
31 ports and private terminals located in Jefferson and
32 Orange Counties and to provide for the appointment and
33 regulation of branch pilots for those ports and
34 private terminals, effectively replacing the Pilots
35 Commission of the Sabine Bar. The revised law is
36 drafted accordingly.

1 (3) Section 2(j), Chapter 370, Acts of the 53rd
2 Legislature, Regular Session, 1953, provides that it
3 is the intent of the legislature to exclude certain
4 entities from the operation of that act. The revised
5 law omits that provision as unnecessary because it is
6 implied that a statute expresses the intent of the
7 legislature. The omitted law reads:

8 (j) . . . it being the intent of the
9 Legislature to exclude the Branch Pilots of
10 the Sabine Bar and Tributaries and the
11 Pilots Commission of said Bar from the
12 operation of any part of this Act.

13 Revised Law

14 Sec. 5018.0104. BYLAWS AND RULES. The district may adopt
15 bylaws and rules to manage and regulate its affairs. (Acts 53rd
16 Leg., R.S., Ch. 370, Sec. 2 (part).)

17 Source Law

18 Sec. 2. . . . the District shall have and is
19 hereby authorized to exercise the following powers,
20 rights, privileges, and functions:

21 . . .
22 (e) To make by-laws, rules and regulations for
23 the management and regulation of its affairs.
24 . . .

25 Revisor's Note

26 Section 2(e), Chapter 370, Acts of the 53rd
27 Legislature, Regular Session, 1953, authorizes the
28 district to "make by-laws, rules and regulations."
29 The revised law substitutes "adopt" for "make"
30 because, in context, the terms are synonymous and
31 "adopt" is more commonly used. The revised law also
32 omits the reference to "regulations" because under
33 Section 311.005(5), Government Code (Code
34 Construction Act), a rule is defined to include a
35 regulation.

36 Revised Law

37 Sec. 5018.0105. ACQUISITION OF PROPERTY; EMINENT DOMAIN;
38 DAMAGES. (a) In this section, "property" means property of any
39 kind, including a lighter, a tug, a barge, and other floating

1 equipment of any nature.

2 (b) If necessary or convenient to exercising a power, right,
3 privilege, or function conferred on the district by this chapter,
4 the district:

5 (1) by gift or purchase may acquire property or an
6 interest in property that is inside or outside the district's
7 boundaries; or

8 (2) by exercising the power of eminent domain may
9 acquire property or an interest in property that is inside the
10 district's boundaries.

11 (c) The district may exercise the power of eminent domain to
12 acquire the fee simple title to or an easement or right-of-way over
13 and through any land, water, or land under water, private or public,
14 in the district that the board determines is necessary or
15 convenient to carry out a purpose or power granted to the district
16 by this chapter.

17 (d) The district must exercise the power of eminent domain
18 in the manner provided by Chapter 21, Property Code, except that the
19 district is not required to give bond for appeal or bond for costs
20 in any judicial proceeding.

21 (e) In exercising the power of eminent domain against a
22 person that has the power of eminent domain or a receiver or trustee
23 for that person, the district may acquire an easement only and not
24 the fee simple title.

25 (f) A condemnation proceeding is under the board's
26 direction and must be in the district's name.

27 (g) Except as provided by Subsections (h) and (i), the
28 assessment of damages and all procedures with reference to
29 condemnation, appeal, and payment must conform to Chapter 21,
30 Property Code.

31 (h) If the district's exercise of a power granted by this
32 chapter makes necessary the relocation of a railroad line or
33 right-of-way, the district shall pay the cost of the relocation and
34 any damage incurred in changing and adjusting the railroad lines

1 and grades.

2 (i) The damages to the owner of public utilities and
3 communication facilities and properties must include the actual
4 loss, costs, and expenses incident to the removal and relocation of
5 the facilities and properties, including:

6 (1) the costs of installing the facilities in a new
7 location;

8 (2) the costs of any land or rights or interest in
9 land; and

10 (3) any other property rights acquired to accomplish
11 the removal and relocation.

12 (j) The district's authority under this section to exercise
13 the power of eminent domain expired on September 1, 2013, unless the
14 district submitted a letter to the comptroller in accordance with
15 Section 2206.101(b), Government Code, not later than December 31,
16 2012. (Acts 53rd Leg., R.S., Ch. 370, Sec. 2 (part); New.)

17 Source Law

18 Sec. 2. . . . the District shall have and is
19 hereby authorized to exercise the following powers,
20 rights, privileges, and functions:

21 . . .
22 (i) To acquire by gift or purchase any and all
23 properties of any kind including lighters, tugs,
24 barges and other floating equipment of any nature,
25 real, personal or mixed or any interest therein within
26 or outside of the boundaries of the District necessary
27 or convenient to the exercise of the powers, rights,
28 privileges and functions conferred upon it by this
29 Act, and to acquire by condemnation within the
30 boundaries of the District in a manner provided by
31 general law for condemnation by counties; providing
32 that the District shall not be required to give bond
33 for appeal or bond for cause in any judicial
34 proceeding; and the right of eminent domain is
35 expressly conferred in this District, to enable it to
36 acquire the fee simple title to, and easement or right
37 of way over and through, any and all lands, water or
38 lands under water, private or public, within such
39 District, which in the judgment of the Board of
40 Commissioners is necessary or convenient to carry out
41 any of the purposes and powers conferred upon such
42 District by this Act; provided, however, that as
43 against persons, firms and corporations, or receivers
44 or trustees thereof, who have the power of eminent
45 domain, the fee title may not be condemned, but the
46 District may condemn only an easement. All such
47 condemnation proceedings shall be under the direction
48 of the Commissioners and in the name of the District,
49 and the assessment of damages and all procedures with
50 reference to condemnation, appeal and payment shall be

1 in conformity with the Statutes of this State as
2 provided in the title of the Revised Civil Statutes of
3 Texas relating to 'Eminent Domain.' In the event it
4 becomes necessary in the exercise of the powers
5 conferred by this Act that any railroad line or right
6 of way should be relocated, the cost of such relocation
7 and any damage incurred in changing and adjusting the
8 lines and grades of such railroad shall be paid by the
9 District. The damages to the owner of public utilities
10 and communication facilities and properties shall
11 include the actual loss, costs and expenses incident
12 to the removal as well as the relocation of the
13 facilities and properties, including the costs of
14 installing the facilities in a new location, and the
15 costs of any land or rights or interest in land, and
16 any other property rights acquired to accomplish such
17 removal and relocation.
18

. . .

19 Revisor's Note

20 (1) Section 2(i), Chapter 370, Acts of the 53rd
21 Legislature, Regular Session, 1953, refers to
22 "properties of any kind . . . real, personal or
23 mixed." The revised law omits the reference to "real,
24 personal or mixed" property because under Section
25 311.005(4), Government Code (Code Construction Act),
26 "property" includes both real and personal property,
27 and "mixed" property is property consisting of both
28 real and personal property.

29 (2) Section 2(i), Chapter 370, Acts of the 53rd
30 Legislature, Regular Session, 1953, provides that the
31 district may acquire certain property "by
32 condemnation." The revised law substitutes for the
33 quoted language "by exercising the power of eminent
34 domain" because the phrases have the same meaning and
35 the latter phrase is consistent with modern usage in
36 laws relating to eminent domain.

37 (3) Section 2(i), Chapter 370, Acts of the 53rd
38 Legislature, Regular Session, 1953, provides that the
39 district must exercise the power of eminent domain in
40 the manner provided by "general law for condemnation
41 by counties." The revised law substitutes for the
42 quoted language a reference to Chapter 21, Property
43 Code, because that is the general law governing

1 eminent domain for governmental entities, including
2 counties.

3 (4) Section 2(i), Chapter 370, Acts of the 53rd
4 Legislature, Regular Session, 1953, provides that "the
5 right of eminent domain is expressly conferred in this
6 District." The revised law substitutes for the quoted
7 language a statement that the district "may exercise
8 the power of eminent domain" because the provisions
9 have the same meaning and the reference to the exercise
10 of the power of eminent domain is consistent with
11 modern usage in laws relating to eminent domain.

12 (5) Section 2(i), Chapter 370, Acts of the 53rd
13 Legislature, Regular Session, 1953, refers to "fee
14 simple title" and "fee title." The revised law
15 substitutes "fee simple title" for the latter phrase
16 for consistency of terminology.

17 (6) Section 2(i), Chapter 370, Acts of the 53rd
18 Legislature, Regular Session, 1953, refers to
19 "persons, firms and corporations." The revised law
20 omits the reference to "firms and corporations"
21 because under Section 311.005(2), Government Code
22 (Code Construction Act), "person" is defined to
23 include a corporation or any other legal entity.

24 (7) Section 2(i), Chapter 370, Acts of the 53rd
25 Legislature, Regular Session, 1953, requires the
26 district's procedures for condemnation to conform to
27 "the Statutes of this State as provided in the title of
28 the Revised Civil Statutes of Texas relating
29 to 'Eminent Domain.'" The title of the Revised
30 Statutes to which the quoted language refers is Title
31 52. In 1983, Title 52, Revised Statutes, was codified
32 as Chapter 21, Property Code. Therefore, the revised
33 law substitutes a reference to Chapter 21, Property
34 Code, for the quoted language.

1 (8) Section 2(i), Chapter 370, Acts of the 53rd
2 Legislature, Regular Session, 1953, provided the
3 district limited eminent domain authority. Section
4 2206.101, Government Code, required an entity with
5 eminent domain authority to submit a letter with
6 certain information to the comptroller not later than
7 December 31, 2012, to prevent the entity's eminent
8 domain authority from expiring on September 1, 2013.
9 To avoid the appearance that this revision recognizes
10 authority that the district may not possess at the time
11 of the revision, the revised law includes a provision
12 setting out the requirements of Section 2206.101,
13 Government Code.

14 Revised Law

15 Sec. 5018.0106. ACQUISITION OF PROPERTY FROM CITY OF
16 ORANGE. (a) The district may acquire from the City of Orange, with
17 the consent of the City of Orange as provided by the city's charter,
18 the city's port properties, lands, assets, liabilities, contracts,
19 improvement plans, money on hand, and facilities acquired by the
20 city for port purposes.

21 (b) The manner of the acquisition authorized under this
22 section must be determined between the City of Orange's city
23 commission and the board. (Acts 53rd Leg., R.S., Ch. 370, Sec. 4.)

24 Source Law

25 Sec. 4. Said District shall have authority to
26 acquire from the City of Orange, with the consent of
27 the City of Orange, evidence as may be provided in its
28 charter all of its port properties, lands, assets,
29 liabilities, contracts, improvement plans, moneys
30 and/or funds on hand and facilities acquired by said
31 City for port purposes in a manner to be determined
32 between the City Commission of the City of Orange, and
33 said Board of Commissioners of such District.

34 Revisor's Note

35 Section 4, Chapter 370, Acts of the 53rd
36 Legislature, Regular Session, 1953, refers to "moneys
37 and/or funds" on hand. Throughout this chapter, the
38 revised law substitutes "money" for the quoted or

1 similar language because, in context, the meaning is
2 the same and "money" is the more commonly used term.

3 Revised Law

4 Sec. 5018.0107. GENERAL AUTHORITY TO MAKE CONTRACTS AND
5 EXECUTE INSTRUMENTS. The district may make a contract or execute an
6 instrument necessary or convenient to exercise a power, right,
7 privilege, or function granted to the district by this chapter.
8 (Acts 53rd Leg., R.S., Ch. 370, Sec. 2 (part).)

9 Source Law

10 Sec. 2. . . . the District shall have and is
11 hereby authorized to exercise the following powers,
12 rights, privileges, and functions:

13 . . .
14 (g) To make contracts and execute instruments
15 necessary or convenient to the exercise of the powers,
16 rights, privileges and functions conferred upon it by
17 this Act.
18 . . .

19 Revised Law

20 Sec. 5018.0108. AUTHORITY TO SUE AND BE SUED. The district
21 may sue and be sued in its corporate name. (Acts 53rd Leg., R.S.,
22 Ch. 370, Sec. 2 (part).)

23 Source Law

24 Sec. 2. . . . the District shall have and is
25 hereby authorized to exercise the following powers,
26 rights, privileges, and functions:

27 . . .
28 (c) To sue and be sued in its corporate name.
29 . . .

30 Revised Law

31 Sec. 5018.0109. SEAL. The district may adopt and use a
32 corporate seal. (Acts 53rd Leg., R.S., Ch. 370, Sec. 2 (part).)

33 Source Law

34 Sec. 2. . . . the District shall have and is
35 hereby authorized to exercise the following powers,
36 rights, privileges, and functions:

37 . . .
38 (d) To adopt, use and alter a corporate seal.
39 . . .

40 Revisor's Note

41 Section 2(d), Chapter 370, Acts of the 53rd
42 Legislature, Regular Session, 1953, states that the
43 district may "adopt, use and alter a corporate seal."

1 The revised law omits "alter" because the power to
2 adopt a seal includes the power to alter it.

3 Revised Law

4 Sec. 5018.0110. POWERS AND LIMITATIONS REGARDING
5 LEVINGSTON ISLAND IN LOUISIANA. (a) On approval by resolution of
6 the board, the district may purchase for the district the following
7 property: Levingston Island, also known as Harbor Island, located
8 in the bend of the Sabine River, opposite the City of Orange and
9 located in Calcasieu Parish, Louisiana.

10 (b) The property purchased under this section is not
11 territory in the district's boundaries. The authority to purchase
12 the property described in this section and the purchase of that
13 property is not the annexation or attempted annexation of the
14 property to the State of Texas from the State of Louisiana.

15 (c) The district may:

16 (1) provide projects and facilities on the property
17 purchased under this section for purposes of economic development
18 to benefit the district; and

19 (2) issue bonds and other obligations of the district
20 secured by the revenue from the projects and facilities provided on
21 the property purchased under this section for the purposes of
22 constructing, acquiring, and maintaining those projects and
23 facilities.

24 (d) The district may not impose ad valorem taxes in the
25 district to finance the projects and facilities provided under this
26 section. (Acts 53rd Leg., R.S., Ch. 370, Sec. 2A.)

27 Source Law

28 Sec. 2A. (a) On approval by resolution of its
29 Board of Commissioners, the District may purchase for
30 the District the following property: Levingston
31 Island, also known as Harbor Island, located in the
32 bend of the Sabine River, opposite the City of Orange
33 and located in Calcasieu Parish, Louisiana.

34 (b) The property purchased under Subsection (a)
35 of this section is not a part of the territory within
36 the boundaries of the District and the authority to
37 purchase the property described in Subsection (a) of
38 this section and the purchase of that property may not
39 be construed as the annexation or attempted annexation
40 of the property to the State of Texas from the State of

1 Louisiana.

2 (c) The District may exercise its authority
3 under this Act to provide various projects and
4 facilities on the property purchased under this
5 section for purposes of economic development to
6 benefit the District and may issue bonds and other
7 obligations of the District secured by the revenues
8 from the projects and facilities provided on the
9 property purchased under this section for the purposes
10 of constructing, acquiring, and maintaining those
11 projects and facilities.

12 (d) The District may not levy and collect
13 property taxes within the District to finance the
14 projects and facilities provided under this section.

15 Revisor's Note

16 Section 2A(d), Chapter 370, Acts of the 53rd
17 Legislature, Regular Session, 1953, provides that the
18 district may not "levy and collect property taxes" for
19 certain purposes. Throughout this chapter, the
20 revised law substitutes "impose" for "levy," "assess,"
21 "collect," and similar terms because "impose" is the
22 term generally used in Title 1, Tax Code, and includes
23 the levying, assessment, and collection of a tax. The
24 revised law also substitutes "ad valorem taxes" for
25 "property taxes" because "ad valorem tax" is the term
26 most commonly used in Texas law to refer to a tax on
27 property.

28 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

29 Revised Law

30 Sec. 5018.0151. DEPOSITORY. The board shall select a
31 depository or depositories for the district in the manner provided
32 by law for the selection of a county depository. (Acts 53rd Leg.,
33 R.S., Ch. 370, Sec. 12.)

34 Source Law

35 Sec. 12. The Board of Commissioners of the
36 District shall select a depository or depositories of
37 said District under the general provisions as are now
38 or may hereafter be provided by law for the selection
39 of depositories for counties in this State.

40 Revised Law

41 Sec. 5018.0152. ACCOUNTS, CONTRACTS, AND OTHER RECORDS;
42 PUBLIC INSPECTION. (a) The board shall cause to be kept complete
43 and accurate accounts conforming to approved methods of

1 bookkeeping.

2 (b) The secretary shall:

3 (1) keep a true and full account of board meetings and
4 proceedings; and

5 (2) preserve board minutes, contracts, notices,
6 accounts, receipts, and other records in a fireproof vault or safe.

7 (c) The records kept and preserved by the secretary under
8 Subsection (b) are:

9 (1) district property; and

10 (2) subject to public inspection. (Acts 53rd Leg.,
11 R.S., Ch. 370, Sec. 9 (part).)

12 Source Law

13 Sec. 9. The Board of Commissioners shall cause
14 to be kept complete and accurate accounts conforming
15 to approved methods of bookkeeping. The Secretary
16 shall keep a true and full account of their meetings
17 and proceedings and preserve their minutes, contracts,
18 records, notices, accounts, receipts, and records of
19 all kinds in a fireproof vault or safe. The same shall
20 be the property of the District and subject to public
21 inspection. . . .

22 Revised Law

23 Sec. 5018.0153. AUTHORITY TO BORROW MONEY, ACCEPT GRANTS,
24 AND ISSUE ASSOCIATED BONDS. (a) The district may:

25 (1) borrow money for any purpose that is provided by:

26 (A) this chapter; or

27 (B) the general laws relating to navigation
28 districts;

29 (2) borrow money or accept a grant from the United
30 States or from a corporation or agency created or designated by the
31 United States and, in connection with the loan or grant, enter into
32 any agreement the United States or the corporation or agency
33 requires; and

34 (3) make and issue bonds for money borrowed, in the
35 manner and to the extent provided by this chapter.

36 (b) The district may make and issue bonds under Subsection
37 (a)(3) that are:

38 (1) revenue bonds;

- 1 (2) tax bonds; or
2 (3) combination tax-revenue bonds. (Acts 53rd Leg.,
3 R.S., Ch. 370, Sec. 2 (part).)

4 Source Law

5 Sec. 2. . . . the District shall have and is
6 hereby authorized to exercise the following powers,
7 rights, privileges, and functions:

8 . . .
9 (h) To borrow money for any of the purposes,
10 consistent with the Constitution, provided by this Act
11 or by the general laws relating to navigation
12 districts (and without limitation of the generality of
13 the foregoing, to borrow money and accept grants from
14 the United States of America, or from any corporation
15 or agency created or designated by the United States of
16 America, and in connection with any such loan or grant
17 to enter into such agreements as the United States of
18 America or such corporations or agencies may require),
19 and to make and issue its negotiable bonds (revenue,
20 tax, and/or combination tax-revenue bonds) for such
21 borrowed money in the manner and to the extent provided
22 herein.
23 . . .

24 Revisor's Note

25 (1) Section 2(h), Chapter 370, Acts of the 53rd
26 Legislature, Regular Session, 1953, authorizes the
27 district to borrow money for certain purposes provided
28 by the act or by general law that are "consistent with
29 the Constitution." The revised law omits the quoted
30 language because the absence of the language does not
31 imply that the legislature could authorize the
32 district to act in a manner that is inconsistent with
33 the constitution and because under Section 311.021(1),
34 Government Code (Code Construction Act), it is
35 presumed that, in enacting a statute, compliance with
36 the constitutions of this state and the United States
37 is intended.

38 (2) Section 2(h), Chapter 370, Acts of the 53rd
39 Legislature, Regular Session, 1953, authorizes the
40 district to issue "negotiable" bonds. The revised law
41 omits the reference to "negotiable" bonds because
42 Section 1201.041, Government Code, provides that a
43 public security is a negotiable instrument.

1 Throughout this chapter, the revised law omits law
2 that is superseded by Chapter 1201, Government Code,
3 or that duplicates law contained in that chapter.
4 Chapter 1201, Government Code, applies to district
5 bonds under Sections 1201.002 and 1201.003, Government
6 Code.

7 Revised Law

8 Sec. 5018.0154. AUTHORITY TO BORROW MONEY FOR CURRENT
9 EXPENSES; EVIDENCE OF OBLIGATION. (a) The district may:

10 (1) borrow money for current expenses; and

11 (2) evidence the borrowed money by warrants payable
12 not later than the close of the calendar year for which the loan is
13 made.

14 (b) The amount of the warrants may not exceed the
15 anticipated revenue. (Acts 53rd Leg., R.S., Ch. 370, Sec. 2
16 (part).)

17 Source Law

18 Sec. 2. . . .

19 (a) . . . said District shall have the right to
20 borrow funds for current expenses and to evidence the
21 same by warrants payable not later than the close of
22 any calendar year for which loans are made. Such
23 warrants shall never exceed the anticipated revenue
24 and

25 Revisor's Note

26 Section 2(a), Chapter 370, Acts of the 53rd
27 Legislature, Regular Session, 1953, provides that the
28 district's warrants may bear interest at a rate not to
29 exceed six percent. The revised law omits that
30 provision because it is superseded by other law.
31 Chapter 3, Acts of the 61st Legislature, Regular
32 Session, 1969 (Article 717k-2, Vernon's Texas Civil
33 Statutes), now Chapter 1204, Government Code,
34 established a maximum interest rate for public
35 securities. Section 1204.006, Government Code,
36 reflecting the 1981 amendment of Article 717k-2 by
37 Section 1, Chapter 61, Acts of the 67th Legislature,

1 Regular Session, permits a public agency to issue
2 public securities at any net effective interest rate
3 of 15 percent or less. Throughout this chapter, the
4 revised law omits law that is superseded by Chapter
5 1204, Government Code, or that duplicates law
6 contained in that chapter. Chapter 1204, Government
7 Code, applies to public securities issued by the
8 district by application of Sections 1204.001 and
9 1204.002, Government Code. The omitted law reads:

10 Sec. 2. . . .
11 (a) . . . [Such warrants shall never
12 exceed the anticipated revenue and] may
13 bear, not to exceed, six per cent (6%)
14 interest.
15 . . .

16 Revised Law

17 Sec. 5018.0155. AD VALOREM TAX FOR MAINTENANCE AND
18 OPERATIONS; ELECTION PROCEDURE. (a) The district may impose an
19 annual ad valorem tax at a rate not to exceed 15 cents on each \$100
20 valuation of taxable property in the district for the maintenance,
21 operation, and upkeep of the district and the facilities,
22 properties, and improvements constructed or acquired by the
23 district.

24 (b) Elections may be held to increase, reduce, or abate a
25 tax imposed under this section, subject to the limit prescribed by
26 Subsection (a).

27 (c) A maintenance tax election must be held in the same
28 manner as a bond election. (Acts 53rd Leg., R.S., Ch. 370, Secs. 5
29 (part), 17 (part).)

30 Source Law

31 Sec. 5. Said District shall be authorized to
32 levy and cause to be assessed and collected for the
33 maintenance, operation, and upkeep of said District
34 and the facilities, properties, and improvements
35 constructed or acquired by said District, an annual
36 tax not to exceed fifteen cents (15¢) on each One
37 Hundred Dollars (\$100) valuation of all taxable
38 property within such District, whether real, personal,
39 mixed, or otherwise; provided, that the receipts of
40 said tax shall be used for maintenance, operation, and
41 upkeep of the navigation and port facilities of the
42 District; and . . . Subsequent elections may be

1 ordered and held for the purpose of increasing,
2 reducing, or abating such tax; provided, however, that
3 such tax shall never exceed the maximum herein
4 prescribed.

5 Sec. 17. All maintenance tax elections, other
6 than the election called and held under the provisions
7 of Section 6 of this Act, shall be called and held in
8 the same manner as bond elections. . . .

9 Revisor's Note

10 (1) Section 5, Chapter 370, Acts of the 53rd
11 Legislature, Regular Session, 1953, authorizes the
12 district to impose a tax based on the value of the
13 taxable property in the district. The revised law
14 specifies that the tax is an "ad valorem" tax because
15 it is clear from the source law that the tax is a
16 property tax and "ad valorem" tax is the term most
17 commonly used in Texas law to refer to a tax on
18 property.

19 (2) Section 5, Chapter 370, Acts of the 53rd
20 Legislature, Regular Session, 1953, refers to "all
21 taxable property . . . whether real, personal, mixed,
22 or otherwise." The revised law omits the reference to
23 "real, personal, mixed" for the reason stated in
24 Revisor's Note (1) to Section 5018.0105. The revised
25 law omits "or otherwise" because the three categories
26 (real, personal, and mixed) encompass all property
27 types, making "or otherwise" a phrase that provides no
28 additional meaning.

29 (3) Section 5, Chapter 370, Acts of the 53rd
30 Legislature, Regular Session, 1953, provides that the
31 receipts of a maintenance and operations tax "shall be
32 used for maintenance, operation, and upkeep of the
33 navigation and port facilities of the District." The
34 revised law omits the quoted language as duplicative
35 of the authorization for the imposition of a tax "for
36 the maintenance, operation, and upkeep of said
37 District and the facilities, properties, and

1 improvements constructed or acquired by said
2 District."

3 (4) Section 5, Chapter 370, Acts of the 53rd
4 Legislature, Regular Session, 1953, provides that the
5 imposition of a maintenance and operations tax must be
6 approved by the district voters at an election.
7 Because an election to impose the maintenance and
8 operations tax was held and a majority of the voters
9 approved the imposition of the tax, the revised law
10 omits that provision as executed. The omitted law
11 reads:

12 Sec. 5. . . . provided, further,
13 that the levying of such tax shall be first
14 submitted to the qualified property
15 taxpaying voters of said District at an
16 election called and held as hereinafter
17 provided and the proposition shall be
18 adopted by a majority vote of those voting
19 at the election. . . .

20 (5) Section 5, Chapter 370, Acts of the 53rd
21 Legislature, Regular Session, 1953, refers to
22 "[s]ubsequent" elections to distinguish between the
23 initial election to authorize the imposition of a
24 maintenance and operations tax by the district and
25 subsequent elections to change the rate of that tax.
26 The revised law omits "[s]ubsequent" because the
27 provision relating to the initial election to
28 authorize the imposition of a maintenance and
29 operations tax is omitted as executed (see Revisor's
30 Note (4) to this section), and the distinction is no
31 longer required.

32 (6) Section 17, Chapter 370, Acts of the 53rd
33 Legislature, Regular Session, 1953, refers to
34 procedures for elections "other than the election
35 called and held under the provisions of Section 6 of
36 this Act." Because that election has been held, the
37 revised law omits the quoted language as executed.

1 Revised Law

2 Sec. 5018.0156. IMPOSITION OF TAXES; TAX CERTIFICATION; TAX
3 ASSESSOR-COLLECTOR. (a) A tax authorized by this chapter, whether
4 for bonds or maintenance purposes, must be imposed by the board.

5 (b) Each year, the board shall certify to the Orange County
6 tax assessor-collector the rate or rates of tax that the board has
7 imposed for bonds and maintenance purposes.

8 (c) The Orange County tax assessor-collector shall assess
9 and collect taxes imposed by the board in the manner provided by
10 Chapter 62, Water Code. (Acts 53rd Leg., R.S., Ch. 370, Sec. 3
11 (part).)

12 Source Law

13 Sec. 3. . . . It is expressly provided,
14 however, that all taxes authorized by this Act,
15 whether for bonds or maintenance purposes, shall be
16 levied by the Board of Commissioners, and said Board
17 each year shall certify to the Tax Assessor-Collector
18 of Orange County the rate or rates of taxes levied for
19 bonds and maintenance purposes, and it shall be the
20 duty of said Tax Assessor-Collector to cause said
21 taxes to be assessed and collected in the manner
22 provided by said Chapter 5.

23 Revisor's Note

24 Section 3, Chapter 370, Acts of the 53rd
25 Legislature, Regular Session, 1953, refers to the
26 assessment and collection of taxes in the manner
27 provided by "said Chapter 5," meaning Chapter 5,
28 General Laws, Acts of the 39th Legislature, Regular
29 Session, 1925. The revised law substitutes a
30 reference to Chapter 62, Water Code, for the quoted
31 language for the reason stated in Revisor's Note (3) to
32 Section 5018.0051.

33 SUBCHAPTER E. BONDS

34 Revised Law

35 Sec. 5018.0201. DEFINITION. In this subchapter, "net
36 revenue" means the gross revenue derived from the operation of the
37 district's improvements and facilities the income of which is
38 pledged to the payment of district bonds less the reasonable

1 expense of maintaining and operating those improvements and
2 facilities, including necessary repair, upkeep, and insurance
3 expenses for those improvements and facilities. (Acts 53rd Leg.,
4 R.S., Ch. 370, Sec. 14(a) (part).)

5 Source Law

6 (a) . . .

7 'Net revenues' as used herein shall mean the gross
8 revenues derived from the operation of those
9 improvements and facilities of the District the income
10 of which is pledged to the payment of the bonds less
11 the reasonable expense of maintaining and operating
12 said improvements and facilities, and said maintenance
13 and operation expenses shall include, among other
14 things, necessary repair, upkeep, and insurance of
15 said improvements and facilities.

16 . . .

17 Revisor's Note

18 Section 14(a), Chapter 370, Acts of the 53rd
19 Legislature, Regular Session, 1953, states that
20 maintenance and operation expenses "include, among
21 other things," certain items. The revised law omits
22 "among other things" because Section 311.005(13),
23 Government Code (Code Construction Act), provides that
24 "includes" and "including" are terms of enlargement
25 and not of limitation and do not create a presumption
26 that components not expressed are excluded.

27 Revised Law

28 Sec. 5018.0202. AUTHORITY TO ISSUE BONDS. (a) To provide
29 money for any purpose provided by this chapter or another law
30 relating to navigation districts, the board may issue bonds
31 secured:

32 (1) solely by a pledge of and payable from the net
33 revenue derived from the operation of all or a designated part of
34 the district's improvements and facilities then in existence or to
35 be constructed or acquired;

36 (2) by a pledge of and payable from an ad valorem tax
37 on all taxable property in the district under Section 59, Article
38 XVI, Texas Constitution; or

39 (3) by a combination of the methods prescribed under

1 Subdivisions (1) and (2).

2 (b) If bonds issued under Subsection (a)(1) are
3 outstanding, the board shall charge and collect fees, tolls, and
4 charges sufficient to:

5 (1) pay all maintenance and operation expenses of the
6 improvements and facilities, the income of which is pledged;

7 (2) pay the interest on the bonds as it accrues;

8 (3) pay the principal of the bonds as it matures; and

9 (4) make any other payments prescribed in the bond
10 order or resolution.

11 (c) If bonds issued under Subsection (a)(2) are
12 outstanding, the board shall annually impose a tax sufficient to
13 pay:

14 (1) the interest on the bonds as it accrues; and

15 (2) the principal of the bonds as it matures.

16 (d) If bonds issued under Subsection (a)(3) are
17 outstanding, the board shall charge and collect fees, tolls, and
18 charges so that, in the manner prescribed in the bond order or
19 resolution, the amount of tax to be collected may be reduced or
20 abated to the extent that the revenue from the operation of the
21 improvements and facilities, the income of which is pledged, is
22 sufficient to:

23 (1) meet the requirements for maintenance and
24 operation of the improvements and facilities; and

25 (2) provide money for the bonds as prescribed in the
26 bond order or resolution.

27 (e) All district bonds must be authorized by board
28 resolution or order.

29 (f) Bonds payable solely from net revenue may be issued
30 without an election. (Acts 53rd Leg., R.S., Ch. 370, Secs. 14(a)
31 (part), (b) (part), (c) (part), (e) (part).)

32 Source Law

33 Sec. 14. (a) For the purpose of providing
34 funds for any of the purposes provided by this Act or
35 other laws relating to navigation districts, the Board

1 of Commissioners shall have the power from time to time
2 to issue negotiable bonds for and on behalf of the
3 District, which bonds may be secured by any one of the
4 following methods:

5 (1) Solely by a pledge of and payable from
6 the net revenues derived from the operation of all or a
7 designated part of the improvements and facilities of
8 the District then in existence or to be constructed or
9 acquired, with the duty on the Board of Commissioners
10 to charge and collect fees, tolls, and charges, so long
11 as the bonds are outstanding, sufficient to pay all
12 maintenance and operation expenses of the improvements
13 and facilities (the income of which is pledged), the
14 interest on such bonds as it accrues, the principal of
15 such bonds as it matures, and to make any and all other
16 payments as may be prescribed in the bond order or
17 resolution; or

18 (2) By a pledge of and payable from an
19 advalorem tax upon all taxable property within the
20 District under Section 59 of Article 16 of the
21 Constitution of Texas, with the duty on the Board of
22 Commissioners each year while the bonds, or any part of
23 them, are outstanding to levy, and cause to be assessed
24 and collected, a tax sufficient to pay the interest on
25 such bonds as it accrues and the principal of such
26 bonds as it matures; or

27 (3) By a combination of the methods
28 prescribed under (1) and (2) above, wherein the bonds
29 are supported and secured by an ad valorem tax, with
30 the duty on the Board of Commissioners to charge and
31 collect fees, tolls, and charges, so long as the bonds
32 are outstanding, so that (in the manner prescribed in
33 the bond order or resolution) the amount of tax to be
34 collected from time to time may be reduced or abated to
35 the extent that the revenues from the operation of said
36 improvements and facilities (the income of which is
37 pledged) are sufficient to meet the requirements for
38 maintenance and operation of said improvements and
39 facilities and to provide funds for the bonds as
40 prescribed in said bond order or resolution.

41 . . .
42 (b) Bonds payable solely from net revenues may
43 be issued by resolution or order of the Board of
44 Commissioners, and no election therefor shall be
45 necessary. . . .

46 (c) All bonds of the District shall be
47 authorized by resolution or order of the Board of
48 Commissioners,

49 (e) In all cases where the District is now or
50 hereafter authorized by any general law of this State
51 to issue revenue bonds payable solely from the
52 revenues from properties acquired or to be acquired or
53 from other revenue-producing properties of the
54 District, such bonds may, at the option of the Board of
55 Commissioners, be further secured by the levy of ad
56 valorem taxes upon all taxable property within said
57 District;

58 Revisor's Note

59 (1) Section 14(a), Chapter 370, Acts of the 53rd
60 Legislature, Regular Session, 1953, provides that the
61 district may issue bonds and collect taxes "from time
62 to time." The revised law omits that phrase because

1 the power to take an action includes the power to act
2 from time to time.

3 (2) Section 14(a), Chapter 370, Acts of the 53rd
4 Legislature, Regular Session, 1953, authorizes the
5 district to issue "negotiable" bonds. The revised law
6 omits the reference to "negotiable" bonds for the
7 reason stated in Revisor's Note (2) to Section
8 5018.0153.

9 Revised Law

10 Sec. 5018.0203. ELECTION FOR BONDS PAYABLE FROM AD VALOREM
11 TAXES. (a) Bonds, other than refunding bonds, payable wholly or
12 partly from ad valorem taxes may not be issued unless authorized by
13 an election called by the board at which a majority of the votes
14 cast favor the bond issuance.

15 (b) Notice of the election must be given by publishing a
16 substantial copy of the order calling the election in a newspaper of
17 general circulation in the district on the same day in each of two
18 successive weeks. The first publication must be not later than the
19 14th day before the date of the election. No other notice of the
20 election is necessary.

21 (c) If the bonds are to be payable solely from taxes, the
22 ballot must have printed on it "For the bonds and the levy of taxes
23 in payment thereof" and the contrary of that proposition.

24 (d) If the bonds are to be payable both from net revenue and
25 taxes, the ballot must have printed on it "For the bonds, the pledge
26 of net revenues, and the levy of taxes adequate to provide for the
27 payment thereof" and the contrary of that proposition. (Acts 53rd
28 Leg., R.S., Ch. 370, Secs. 14(b) (part), (e) (part).)

29 Source Law

30 (b) . . . No bonds wholly or partially supported
31 by taxes, except refunding bonds, shall be issued
32 unless and until they have been authorized at an
33 election called by the Board of Commissioners at which
34 a majority of the duly qualified resident electors of
35 said District who own taxable property within said
36 District and who have duly rendered the same for
37 taxation, voting at said election, have voted in favor
38 thereof. . . . notice of such election shall be given

1 by publication of a substantial copy of the order or
2 resolution calling the election in a newspaper of
3 general circulation within the District on the same
4 day in each of two (2) successive weeks, the first
5 publication to be not less than fourteen (14) days
6 prior to the date of such election. No other notice of
7 election shall be necessary. If the bonds are to be
8 payable solely from taxes, the proposition to appear
9 upon the ballot shall be "For the bonds and the levy of
10 taxes in payment thereof," and the contrary thereof.
11 If the bonds are to be payable both from net revenues
12 and taxes, the proposition to appear upon the ballot
13 shall be "For the bonds, the pledge of net revenues,
14 and the levy of taxes adequate to provide for the
15 payment thereof," and the contrary thereof.

16 (e) . . . provided, that no bonds payable from
17 ad valorem taxes as well as revenues shall be issued
18 until the same have been authorized at an election
19 called and held as provided in this Act for other tax
20 bond elections, at which election a majority of the
21 duly qualified resident electors of said District who
22 own taxable property within said District and who have
23 duly rendered the same for taxation, voting at said
24 election, have voted in favor thereof. . . .

25 Revisor's Note

26 (1) Sections 14(b) and (e), Chapter 370, Acts of
27 the 53rd Legislature, Regular Session, 1953, refer to
28 a vote by "a majority of the duly qualified resident
29 electors of said District who own taxable property
30 within said District and who have duly rendered the
31 same for taxation." The revised law omits the
32 reference to "duly qualified resident electors of said
33 District" for the reason stated in Revisor's Note (3)
34 at the end of Subchapter B. The revised law also omits
35 the reference to voting by persons who own taxable
36 property and render that property for taxation because
37 in Hill v. Stone, 421 U.S. 289 (1975), the United
38 States Supreme Court determined that property
39 ownership as a qualification for voting is an
40 unconstitutional denial of equal protection.

41 (2) Section 14(b), Chapter 370, Acts of the 53rd
42 Legislature, Regular Session, 1953, provides that an
43 election must be held not less than 14 days after the
44 date the election is ordered. The revised law omits
45 the provision as superseded by Section 3.005, Election

1 Code, applicable to the district under Section 1.002,
2 Election Code. Section 3.005, as amended by Chapter
3 84, Acts of the 84th Legislature, Regular Session,
4 2015, requires an election order issued by an
5 authority of a political subdivision to be issued not
6 later than the 62nd or 78th day before election day,
7 depending on when the election is held, and provides
8 that Section 3.005 supersedes a law outside the
9 Election Code to the extent of any conflict. The
10 omitted law reads:

11 (b) . . . Any such election shall be
12 held not less than fourteen (14) days after
13 the date of adoption of the order or
14 resolution calling said election, and
15

16 (3) Section 14(b), Chapter 370, Acts of the 53rd
17 Legislature, Regular Session, 1953, refers to an
18 "order or resolution" calling an election. The
19 revised law omits "resolution" because "order" is the
20 term used in Chapter 3, Election Code.

21 Revised Law

22 Sec. 5018.0204. PROVISIONS OF CERTAIN BOND RESOLUTIONS OR
23 ORDERS; AUTHORITY TO ADOPT OR EXECUTE OTHER PROCEEDINGS OR
24 INSTRUMENTS. (a) In the resolution or order adopted by the board
25 authorizing the issuance of bonds payable wholly or partly from net
26 revenue, the board may:

27 (1) provide for:

28 (A) the flow of money; and

29 (B) the establishment and maintenance of an
30 interest and sinking fund, a reserve fund, and any other funds;

31 (2) make any additional covenants with respect to the
32 bonds, the pledged revenue, and the operation, maintenance, and
33 upkeep of the improvements and facilities the income of which is
34 pledged, including a provision for the leasing of all or a part of
35 the improvements and facilities and the use or pledge of money
36 derived from those leases, as the board considers appropriate;

1 (3) prohibit the further issuance of bonds or other
2 obligations payable from the pledged net revenue;

3 (4) reserve the right to issue additional bonds to be
4 secured by a pledge of and payable from the net revenue on a parity
5 with, or subordinate to, the lien and pledge in support of the bonds
6 being issued, subject to any conditions provided by the resolution
7 or order; or

8 (5) include any other provision or covenant, as
9 determined by the board, that is not prohibited by the Texas
10 Constitution or this chapter.

11 (b) The board may adopt and execute any other proceeding or
12 instrument necessary or convenient to issue the bonds. (Acts 53rd
13 Leg., R.S., Ch. 370, Sec. 14(a) (part).)

14 Source Law

15 (a) . . .
16 In the resolution or order adopted by the Board of
17 Commissioners authorizing the issuance of bonds
18 payable in whole or in part from net revenues, the
19 Board may provide for the flow of funds, the
20 establishment and maintenance of the interest and
21 sinking fund, reserve fund, and other funds, and may
22 make such additional covenants with respect to the
23 bonds and the pledged revenues and the operation,
24 maintenance, and upkeep of those improvements and
25 facilities (the income of which is pledged), including
26 provision for the leasing of all or a part of said
27 improvements and facilities and the use or pledge of
28 moneys derived from leases thereof, as it may deem
29 appropriate. Said resolution or order may also
30 prohibit the further issuance of bonds or other
31 obligations payable from the pledged net revenues, or
32 may reserve the right to issue additional bonds to be
33 secured by a pledge of and payable from said net
34 revenues on a parity with, or subordinate to, the lien
35 and pledge in support of the bonds being issued,
36 subject to such conditions as are set forth in said
37 resolution or order. Such resolution or order may
38 contain such other provisions and covenants, as the
39 Board of Commissioners shall determine, not prohibited
40 by the Constitution of Texas or by this Act, and the
41 Board may adopt and cause to be executed any other
42 proceedings or instruments necessary and/or
43 convenient in the issuance of said bonds.

44 Revised Law

45 Sec. 5018.0205. FORM OF BONDS. District bonds must be:

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

47 (2) signed by the president; and

48 (3) attested by the secretary. (Acts 53rd Leg., R.S.,

1 Ch. 370, Sec. 14(c) (part).)

2 Source Law

3 (c) All bonds of the District . . . shall be
4 issued in the name of the District, shall be signed by
5 the President and attested by the Secretary, and
6

7 Revisor's Note

8 Section 14(c), Chapter 370, Acts of the 53rd
9 Legislature, Regular Session, 1953, provides that
10 bonds must bear the district seal, authorizes
11 facsimile signatures of the president and secretary
12 and facsimile seals, and provides that the interest
13 coupons attached to the bonds may be executed by the
14 facsimile signatures of those officers. The revised
15 law omits those provisions because they are superseded
16 and impliedly repealed by or duplicative of general
17 law. The requirement that the bonds bear the district
18 seal was impliedly repealed by Section 3, Bond
19 Procedures Act of 1981 (Article 717k-6, Vernon's Texas
20 Civil Statutes) (revised in pertinent part in 1999 as
21 Section 1201.026(a), Government Code), which provides
22 that bonds may be issued with or without a seal. The
23 authorization for the use of facsimile signatures
24 duplicates Section 1201.026(a), Government Code,
25 which also provides that bonds and interest coupons
26 may be executed with manual or facsimile signatures.
27 The omitted law reads:

28 (c) [All bonds of the District] . . .
29 shall have the seal of the District
30 impressed thereon; provided, that the
31 resolution or order authorizing such bonds
32 may provide for the bonds to be signed by
33 the facsimile signatures of said President
34 and Secretary, either or both, and for the
35 seal of the District on the bonds to be a
36 printed facsimile seal of the seal of the
37 District; and provided further that the
38 interest coupons attached to said bonds may
39 also be executed by the facsimile
40 signatures of said officers. . . .

1 Revised Law

2 Sec. 5018.0206. MATURITY. District bonds must mature not
3 later than 40 years after the date of their issuance. (Acts 53rd
4 Leg., R.S., Ch. 370, Sec. 14(c) (part).)

5 Source Law

6 (c) . . . Such bonds shall mature serially or
7 otherwise in not to exceed forty (40) years from their
8 date or dates, and

9 Revisor's Note

10 Section 14(c), Chapter 370, Acts of the 53rd
11 Legislature, Regular Session, 1953, provides that
12 district bonds shall mature "serially or otherwise."
13 The revised law omits the quoted language because it is
14 superseded by Section 1201.021, Government Code
15 (enacted as Section 3, Bond Procedures Act of 1981
16 (Article 717k-6, Vernon's Texas Civil Statutes)),
17 which provides that the governing body of an issuer may
18 determine the time of payment of public securities it
19 issues, and by Section 1201.022, Government Code
20 (enacted as Section 5(a), Bond Procedures Act of 1981
21 (Article 717k-6, Vernon's Texas Civil Statutes)),
22 which provides that a public security may be issued
23 with specified characteristics, on specified terms, or
24 in a specified manner.

25 Revised Law

26 Sec. 5018.0207. USE OF BOND PROCEEDS. The board may
27 appropriate or set aside out of the proceeds from the sale of any
28 district bonds:

29 (1) an amount for the payment of interest expected to
30 accrue during the period of construction of the improvements or
31 facilities; and

32 (2) an amount necessary to pay all expenses incurred
33 and to be incurred in the issuance, sale, and delivery of the bonds.

34 (Acts 53rd Leg., R.S., Ch. 370, Sec. 14(d).)

1 Source Law

2 (d) From the proceeds of sale of any bonds of the
3 District, the Board of Commissioners may appropriate
4 or set aside out of the bond proceeds an amount for the
5 payment of interest expected to accrue during the
6 period of construction of the improvements or
7 facilities, and an amount necessary to pay all
8 expenses incurred and to be incurred in issuance,
9 sale, and delivery of the bonds.

10 Revised Law

11 Sec. 5018.0208. REFUNDING BONDS. (a) The board may issue
12 refunding bonds of the district to refund any outstanding district
13 bonds and accrued interest on those bonds.

14 (b) Refunding bonds may:

15 (1) as to outstanding bonds payable wholly from taxes,
16 be issued to refund more than one series or issue of the outstanding
17 bonds; and

18 (2) as to outstanding bonds payable wholly or partly
19 from net revenue:

20 (A) be issued to refund more than one series or
21 issue of the outstanding bonds;

22 (B) combine the pledges for the outstanding bonds
23 for the security of the refunding bonds; and

24 (C) be secured by other or additional revenue.

25 (c) Bonds payable solely from net revenue may not be
26 refunded into bonds secured by taxes unless the issuance of the
27 bonds is authorized by a majority of the voters voting at an
28 election held in the same manner as a bond election.

29 (d) Refunding under this section may not impair the contract
30 rights of the holders of any of the outstanding bonds that are not
31 to be refunded.

32 (e) Refunding bonds must:

33 (1) be authorized by a board resolution or order;

34 (2) be executed and mature as provided by this chapter
35 for original bonds; and

36 (3) bear interest at the same or a lower rate than that
37 of the bonds refunded unless it is shown mathematically that a

1 saving will result in the total amount of interest to be paid.

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

4 (g) Instead of issuing bonds to be registered on the
5 surrender and cancellation of the bonds to be refunded, the
6 district, in the resolution or order authorizing the issuance of
7 the refunding bonds, may provide for the sale of the refunding bonds
8 and the deposit of the proceeds in the place or places at which the
9 bonds to be refunded are payable. In that case, the refunding bonds
10 may be issued in an amount sufficient to pay the interest on the
11 bonds to be refunded to their option date or maturity date, and the
12 comptroller shall register the refunding bonds without the
13 surrender and cancellation of the bonds to be refunded. (Acts 53rd
14 Leg., R.S., Ch. 370, Sec. 15 (part).)

15 Source Law

16 Sec. 15. The Board of Commissioners shall have
17 the power to issue refunding bonds of the District for
18 the purpose of refunding any outstanding bonds of the
19 District and accrued interest thereon. As to
20 outstanding bonds payable wholly from taxes, such
21 refunding bonds may be issued to refund more than one
22 series or issue of such outstanding bonds. As to
23 outstanding bonds payable in whole or in part from net
24 revenues, such refunding bonds may be issued to refund
25 more than one series or issue of such outstanding bonds
26 and combine pledges for the outstanding bonds for the
27 security of the refunding bonds, and such refunding
28 bonds may be secured by other and additional revenues;
29 provided, that no bonds payable solely from net
30 revenues may be refunded into bonds secured by taxes
31 unless the same is authorized by a majority vote of the
32 taxpaying voters voting at an election called and held
33 in the same manner as bond elections; and provided,
34 further, that such refunding will not impair the
35 contract rights of the holders of any of the
36 outstanding bonds which are not to be refunded.

37 Refunding bonds shall be authorized by resolution
38 or order of the Board of Commissioners, and shall be
39 executed and mature as is provided in this Act for
40 original bonds. They shall bear interest at the same
41 or lower rate than that of the bonds refunded unless it
42 is shown mathematically that a saving will result in
43 the total amount of interest to be paid. They . . .
44 shall be registered by the Comptroller upon surrender
45 and cancellation of the bonds to be refunded, but in
46 lieu thereof, the resolution or order authorizing
47 their issuance may provide that they shall be sold and
48 the proceeds thereof deposited in the place or places
49 where the original bonds are payable, in which case the
50 refunding bonds may be issued in an amount sufficient
51 to pay the interest on the original bonds to their
52 option or maturity date, and the Comptroller shall

1 register them without the surrender and cancellation
2 of the original bonds. . . .

3 Revisor's Note

4 Section 15, Chapter 370, Acts of the 53rd
5 Legislature, Regular Session, 1953, refers to
6 "taxpaying voters." The revised law omits "taxpaying"
7 for the reason stated in Revisor's Note (1) to Section
8 5018.0203.

9 Revisor's Note
10 (End of Subchapter)

11 (1) Section 14(c), Chapter 370, Acts of the 53rd
12 Legislature, Regular Session, 1953, provides that
13 district bonds may be sold at a price and under terms
14 that the board determines to be the most advantageous
15 reasonably obtainable. The revised law omits that
16 provision because it duplicates or is superseded by
17 provisions of general law. Section 1204.006(b),
18 Government Code, enacted as Section 2(a), Chapter 3,
19 Acts of the 61st Legislature, Regular Session, 1969
20 (Article 717k-2, Vernon's Texas Civil Statutes),
21 provides that an issuer may sell public securities at
22 any price. Section 1201.022, Government Code, as
23 amended in 2001, provides that an issuer may sell
24 public securities "under the terms determined by the
25 governing body of the issuer to be in the issuer's best
26 interests." The omitted law reads:

27 (c) . . . [Such bonds] . . . may be
28 sold at a price and under terms determined
29 by the Board of Commissioners to be most
30 advantageous reasonably obtainable,
31

32 (2) Section 14(c), Chapter 370, Acts of the 53rd
33 Legislature, Regular Session, 1953, provides that
34 district bonds may bear interest at a rate not to
35 exceed six percent. The revised law omits that
36 provision for the reason stated in the revisor's note
37 to Section 5018.0154. The omitted law reads:

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

9 (3) Section 14(c), Chapter 370, Acts of the 53rd
10 Legislature, Regular Session, 1953, provides that
11 district bonds may be called, or redeemed, before
12 maturity at the time and price specified in the
13 resolution or order authorizing the bonds. The
14 revised law omits that provision because it duplicates
15 in substance Sections 1201.021 and 1201.022,
16 Government Code, which provide that a public security
17 may be redeemed before maturity and be payable in
18 specified amounts and at specified times. The omitted
19 law reads:

20 (c) . . . within the discretion of
21 the Board such bonds may be callable prior
22 to maturity at such time or times and at
23 such price or prices as may be prescribed in
24 the resolution or order authorizing the
25 bonds. . . .

26 (4) Section 14(c), Chapter 370, Acts of the 53rd
27 Legislature, Regular Session, 1953, provides that
28 district bonds may be made registrable as to principal
29 or as to principal and interest. The revised law omits
30 that provision because it duplicates in substance
31 Section 1201.024(a)(3), Government Code. The omitted
32 law reads:

33 (c) . . . Such bonds may be made
34 registerable as to principal, or as to both
35 principal and interest.
36 . . .

37 (5) Sections 14(c) and (e) and Section 15,
38 Chapter 370, Acts of the 53rd Legislature, Regular
39 Session, 1953, require the district to submit bonds it
40 issues to the attorney general for examination and
41 approval. Sections 14(c) and (e) and Section 15 also
42 provide that after approval the bonds must be

1 registered by the comptroller. Sections 14(c) and 15
2 provide that after approval and registration, district
3 bonds are incontestable except for forgery or fraud.
4 The revised law omits those provisions as superseded
5 by Chapter 1202, Government Code (enacted as Article
6 3, Chapter 53, Acts of the 70th Legislature, 2nd Called
7 Session, 1987). Section 1202.003, Government Code,
8 provides for approval of bonds by the attorney general
9 and requires the attorney general to submit the
10 approved bonds to the comptroller for registration.
11 Section 1202.005, Government Code, requires
12 registration of the bonds by the comptroller. Section
13 1202.006, Government Code, provides that after
14 approval and registration the bonds are incontestable
15 for any reason. Chapter 1202, Government Code,
16 applies to district bonds by application of Sections
17 1202.001 and 1202.003(c), Government Code. The
18 omitted law reads:

19 [Sec. 14]

20 (c) . . .

21 After such bonds have been authorized
22 by the District, such bonds and the record
23 relating to their issuance shall be
24 submitted to the Attorney General of Texas
25 for his examination as to the validity
26 thereof, and after the Attorney General has
27 approved the same, such bonds shall be
28 registered by the Comptroller of Public
29 Accounts of Texas. When such bonds have
30 been approved by the Attorney General,
31 registered by the Comptroller, and
32 delivered to the purchasers, they shall
33 thereafter be incontestable except for
34 forgery or fraud. . . .

35 (e) . . . Such bonds shall be
36 submitted to the Attorney General of Texas
37 for approval and to the Comptroller of
38 Public Accounts of Texas for registration
39 as is provided in this Act for other bonds
40 of the District.

41 Sec. 15. . . . [They] shall be
42 approved by the Attorney General as in the
43 case of original bonds, and All
44 such refunding bonds, after they have been
45 approved by the Attorney General and
46 registered by the Comptroller, shall be
47 incontestable except for forgery or fraud.

1 (6) Section 14(c), Chapter 370, Acts of the 53rd
2 Legislature, Regular Session, 1953, details various
3 procedures regarding approval of bond contracts and
4 proceedings by the attorney general. The revised law
5 omits the portion of Section 14(c) regarding the
6 validity and incontestability of a contract the
7 proceeds of which are pledged to the payment of a bond
8 as impliedly repealed by Section 1202.006, Government
9 Code (enacted as Section 3.002(d), Chapter 53, Acts of
10 the 70th Legislature, 2nd Called Session, 1987).
11 Section 1202.006, Government Code, provides that after
12 approval and registration of the bond, the bond and
13 contract are incontestable for any reason. Section
14 1202.006 applies to district bonds under Sections
15 1202.001 and 1202.003(c), Government Code. The
16 omitted law reads:

17 (c) . . . When any bonds payable in
18 whole or in part from net revenues recite
19 that they are secured partially or
20 otherwise by a pledge of the proceeds of a
21 contract or contracts made between the
22 District and another party or parties
23 (public agencies or otherwise), a copy of
24 such contract or contracts and of the
25 proceedings authorizing the same shall be
26 submitted to the Attorney General along
27 with the bond record, and the approval by
28 the Attorney General of the bonds shall
29 constitute an approval of such contract or
30 contracts, and thereafter the contract or
31 contracts shall be incontestable except for
32 forgery or fraud.

33 (7) Section 16, Chapter 370, Acts of the 53rd
34 Legislature, Regular Session, 1953, provides that
35 district bonds are negotiable instruments and are
36 legal and authorized investments for various entities.
37 The revised law omits those provisions as unnecessary.
38 Section 1201.041, Government Code, provides that any
39 bond is a negotiable instrument. As to several of the
40 entities listed, Section 16 has been superseded and
41 impliedly repealed or it duplicates existing law.

1 Investments in securities by banks are regulated by
2 Section 34.101, Finance Code (enacted in 1995 as
3 Section 5.101, Texas Banking Act (Article 342-5.101,
4 Vernon's Texas Civil Statutes)). Investments by
5 savings banks are regulated by Section 93.001(c)(10),
6 Finance Code (enacted in 1993 as Section 7.15(10),
7 Texas Savings Bank Act (Article 489e, Vernon's Texas
8 Civil Statutes)). Investments in securities by trust
9 companies are regulated by Section 184.101, Finance
10 Code (enacted in 1997 as Section 5.101, Texas Trust
11 Company Act (Article 342a-5.101, Vernon's Texas Civil
12 Statutes)). Investments in securities by building and
13 loan associations (now called savings and loan
14 associations) are regulated by Sections 63.002 and
15 64.001, Finance Code. As to the remaining entities
16 listed, Section 16 is superseded by Section 1201.041,
17 Government Code (enacted as Section 9, Bond Procedures
18 Act of 1981 (Article 717k-6, Vernon's Texas Civil
19 Statutes)). While Section 16 lists "guardians" and
20 Section 1201.041, Government Code, does not, Section
21 1201.041 includes a "fiduciary," and a guardian is a
22 fiduciary. The omitted law reads:

23 Sec. 16. All bonds issued under this
24 Act shall be and are hereby declared to be,
25 and to have all the qualifications of,
26 negotiable instruments under the Negotiable
27 Instruments Law of the State of Texas, and
28 all such bonds shall be and are hereby
29 declared to be legal and authorized
30 investments for banks, savings banks, trust
31 companies, building and loan associations,
32 insurance companies, fiduciaries,
33 trustees, guardians, and for the sinking
34 funds of cities, towns, villages, counties,
35 school districts, or other political
36 corporations or subdivisions of the State
37 of Texas. . . .

38 (8) Section 16, Chapter 370, Acts of the 53rd
39 Legislature, Regular Session, 1953, provides that
40 district bonds may secure deposits of public funds of
41 this state or political subdivisions of this state.

1 The revised law omits the provision relating to the use
2 of district bonds as security for deposits of state
3 funds as impliedly repealed by Section 404.0221,
4 Government Code (enacted in 1995), which lists
5 eligible collateral for deposits of state funds by the
6 comptroller, and by Section 404.031, Government Code
7 (enacted in 1985 as Section 3.001, Article 4393-1,
8 Vernon's Texas Civil Statutes), which provides for the
9 valuation of that collateral. As to securing deposits
10 of other funds, the provision is impliedly repealed by
11 Chapter 2257, Government Code (enacted in 1989 as
12 Article 2592d, Vernon's Texas Civil Statutes), which
13 governs eligible collateral for deposits of funds of
14 other public agencies, including political
15 subdivisions, and permits those deposits to be secured
16 by obligations issued by conservation and reclamation
17 districts. The omitted law reads:

18 Sec. 16. . . . Such bonds shall be
19 eligible to secure the deposit of any and
20 all public funds of the State of Texas, and
21 any and all public funds of cities, towns,
22 villages, counties, school districts, or
23 other political corporations or
24 subdivisions of the State of Texas, and any
25 and all public funds of cities, towns,
26 villages, counties, school districts, or
27 other political corporations or
28 subdivisions of the State of Texas; and such
29 bonds shall be lawful and sufficient
30 security for said deposits to the extent of
31 their face value when accompanied by all
32 unmatured coupons appurtenant thereto.

33 Revisor's Note
34 (End of Chapter)

35 (1) Section 6, Chapter 370, Acts of the 53rd
36 Legislature, Regular Session, 1953, provides
37 procedures for holding an election to elect the
38 district's initial board, confirm the district, and
39 approve the imposition of a maintenance tax. Because
40 the initial directors have been elected and the
41 confirmation of the district and the imposition of a

1 maintenance tax were approved at the election, the
2 revised law omits those provisions as executed. The
3 omitted law reads:

4 Sec. 6. As soon as convenient after
5 the effective date of this Act, the County
6 Judge of Orange County, Texas, shall order
7 an election in said District for the
8 election of five (5) port commissioners,
9 and at which election there shall be
10 submitted the proposition of the
11 confirmation of said District and the
12 levying of the maintenance tax to support
13 said District. The County Judge may require
14 a cash deposit of One Hundred Dollars (\$100)
15 to be deposited with the County Clerk by
16 persons interested as well as a bond to
17 secure the payment of the cost of calling
18 and ordering said election and canvassing
19 and declaring the results of the same,
20 provided that if said election shall carry,
21 the money deposited shall be returned to the
22 persons depositing the same and said bond
23 shall be cancelled and the District shall
24 pay said costs from its available funds, but
25 if said election shall fail to carry, then
26 said money shall be applied on the expenses
27 of election, and if there is any balance it
28 shall be returned to the parties depositing
29 the same, and if the costs shall be more
30 than the amount deposited then the parties
31 signing such bond shall be responsible
32 therefor. Said election shall be held
33 within not less than thirty (30) days nor
34 more than sixty (60) days from the date of
35 the order calling the same. Said election
36 order shall state the time and place of
37 holding said election and shall state the
38 purposes to be voted upon at said election,
39 that is to say, confirmation of the
40 District, election of five (5)
41 Commissioners, and whether or not a
42 maintenance tax is approved by said
43 District, at a rate not to exceed fifteen
44 cents (15¢) on the One Hundred Dollar (\$100)
45 valuation of the property of said District.
46 The County Clerk shall furnish the supplies
47 for said election and cause to be posted and
48 published the notice therefor. Notice of
49 said election shall be given by posting a
50 substantial copy of the election order in
51 each of the election precincts in said
52 District and also at the County Courthouse.
53 Such notice shall also be published on the
54 same day in each of two (2) successive weeks
55 in a newspaper of general circulation
56 published within said District, the date of
57 the first publication to be not less than
58 fourteen (14) days prior to the date of the
59 election. Except as herein provided the
60 manner of holding said election, the
61 returns thereof and canvassing the returns
62 and declaring the results thereof shall be
63 governed by the laws governing general
64 elections. There shall be two (2) ballots

1 prepared for said election, one (1) ballot
2 with the names of the candidates for the
3 positions as Commissioners written or
4 printed thereon, and all those qualified
5 taxpaying property-owning voters shall be
6 qualified to vote for all five (5) said
7 Commissioners. The members of the Board of
8 Commissioners provided for herein shall be
9 elected by the voters of the District at
10 large. Those who desire to have their names
11 printed on the ballot at said election shall
12 make application in writing to the County
13 Judge for a place on the ballot at least
14 twenty (20) days before the date of said
15 election, or upon petition signed by one
16 hundred (100) or more qualified voters of
17 the District any qualified candidate's name
18 shall be placed on said ballot. Those
19 receiving the highest number of votes for
20 the respective places from Precincts One
21 (1), Two (2), Three (3), Four (4) and the
22 County at large on said Commission shall be
23 declared elected.

24 Another ballot shall be prepared for
25 said election and all voters desiring to
26 support the proposition for the
27 confirmation of said District and for the
28 maintenance tax herein mentioned, shall
29 have written or printed upon their ballots
30 the words, 'For the confirmation of the
31 District and the maintenance tax,' and those
32 opposed, the words, 'Against the
33 confirmation of the District and the
34 maintenance tax.'

35 Said election order shall be signed by
36 the County Judge and shall name the judges
37 of the election with authority to appoint
38 their own clerks and assistants, and said
39 election shall be held in each of the voting
40 precincts of said District, and each voter
41 shall vote in the precinct of his residence.
42 The Commissioners Court of said County
43 shall canvass the returns and declare the
44 results of said election at its next regular
45 or special meeting after the date of said
46 election.

47 (2) Section 18, Chapter 370, Acts of the 53rd
48 Legislature, Regular Session, 1953, abolished a
49 previously existing navigation district. The revised
50 law omits the provision as executed because it served
51 its purpose on the date it took effect and is executed
52 law. The omitted law reads:

53 Sec. 18. The Navigation District of
54 Orange County, Texas, created in 1909 is
55 hereby abolished.

56 (3) Section 20, Chapter 370, Acts of the 53rd
57 Legislature, Regular Session, 1953, and Section 5,
58 Chapter 80, Acts of the 55th Legislature, Regular

1 Session, 1957, each provide that the respective act is
2 severable. The revised law omits those provisions
3 because the same result is produced by the application
4 of Section 311.032, Government Code (Code Construction
5 Act), which provides that a provision of a statute is
6 severable from each other provision that can be given
7 effect. The omitted law reads:

8 [Acts 53rd Leg., R.S., Ch. 370]

9 Sec. 20. The provisions of this Act
10 are separable, and if any Section, or part
11 thereof, shall be held unconstitutional or
12 void by any court of competent jurisdiction
13 for any reason, such holding shall not
14 affect the validity of any other Section or
15 part of this Act, and the same shall remain
16 and be in full force and effect, and the
17 Legislature hereby declares that it would
18 have passed the remaining part or parts of
19 this Act.

20 [Acts 55th Leg., R.S., Ch. 80]

21 Sec. 5. If any section, paragraph,
22 clause, phrase, word or other part of this
23 Act or the application thereof to any person
24 or circumstances shall be held to be invalid
25 or unconstitutional, the same shall not
26 affect any other section, paragraph,
27 clause, phrase, word, or other part of the
28 Act or the remainder of the Act and the
29 application of such invalid section,
30 paragraph, clause, phrase, word, or other
31 part of the Act to other persons or
32 circumstances.

33 (4) Section 2, Chapter 80, Acts of the 55th
34 Legislature, Regular Session, 1957, provides that the
35 act does not affect any rights previously vested in or
36 acquired by the district under the terms of Chapter
37 370, Acts of the 53rd Legislature, Regular Session,
38 1953, before its amendment by the act. The revised law
39 omits that provision as executed and because Section
40 311.031(a)(2), Government Code (Code Construction
41 Act), provides that the repeal of a statute does not
42 affect any right, privilege, or obligation previously
43 acquired, accrued, accorded, or incurred under the
44 statute. The omitted law reads:

45 Sec. 2. The provisions of this Act
46 shall not affect any rights heretofore

1 vested in or acquired by the District under
2 the terms of said Chapter 370 prior to its
3 amendment by this Act.

4 (5) Section 3, Chapter 80, Acts of the 55th
5 Legislature, Regular Session, 1957, validates the
6 establishment and boundaries of the district, all acts
7 and governmental proceedings of the board, and all
8 elections held in the district and provides that the
9 act does not apply to pending litigation. Those
10 provisions are omitted from the revised law because
11 they served their purpose on the date they took effect
12 and are executed law. Section 311.031(a)(2),
13 Government Code (Code Construction Act), provides that
14 the repeal of a statute does not affect any validation
15 previously made under the statute. Therefore, the
16 omission of the executed validation provisions does
17 not affect those validations. The omitted law reads:

18 Sec. 3. Said Orange County
19 Navigation and Port District of Orange
20 County, Texas, with boundaries coterminous
21 with those of Orange County, Texas, is
22 hereby in all things validated, and is
23 hereby declared to be a validly existing and
24 operating conservation and reclamation
25 district under Section 59 of Article 16,
26 Constitution of Texas. Without in any way
27 limiting the generalization of the
28 foregoing, it is expressly provided that
29 the elections held December 17, 1955, for
30 the confirmation of the District, the
31 maintenance tax, and the Commissioners, are
32 hereby in all things validated, ratified,
33 and confirmed; and all acts and
34 governmental proceedings of the Board of
35 Commissioners and all elections held in
36 said District are hereby in all things
37 validated, ratified, and confirmed;
38 provided, however, that the validation
39 provision of this sentence shall have no
40 application to litigation pending on the
41 effective date of this Act.

42 CHAPTER 5019. CHAMBERS-LIBERTY COUNTIES NAVIGATION DISTRICT

43 Sec. 5019.0001. DEFINITIONS 129
44 Sec. 5019.0002. APPOINTMENT OF DISTRICT COMMISSIONERS 129
45 Sec. 5019.0003. TERM OF OFFICE 130

1 CHAPTER 5019. CHAMBERS-LIBERTY COUNTIES NAVIGATION DISTRICT

2 Revised Law

3 Sec. 5019.0001. DEFINITIONS. In this chapter:

4 (1) "Commissioner" means a member of the district's
5 navigation and canal commission.

6 (2) "District" means the Chambers-Liberty Counties
7 Navigation District. (New.)

8 Revisor's Note

9 The revised law adds definitions of
10 "commissioner" and "district" for drafting
11 convenience and to avoid frequent, unnecessary
12 repetition of the substance of the definitions.

13 Revised Law

14 Sec. 5019.0002. APPOINTMENT OF DISTRICT COMMISSIONERS. (a)
15 Notwithstanding Section 62.072, Water Code, commissioners are
16 appointed as provided by this section.

17 (b) The commissioners court of Chambers County by majority
18 vote shall appoint two commissioners. The commissioners court of
19 Liberty County by majority vote shall appoint two commissioners.
20 The two commissioners courts shall appoint a fifth commissioner at
21 a joint meeting of the two commissioners courts called and presided
22 over by the county judge of Chambers County.

23 (c) Each of the county judges and county commissioners
24 composing the commissioners courts of both counties is entitled to
25 one vote in appointing the fifth commissioner. A majority vote of
26 those present at the meeting is sufficient to make the appointment.
27 (Acts 76th Leg., R.S., Ch. 1145, Secs. 1(a), (b), (c).)

28 Source Law

29 Sec. 1. (a) Notwithstanding Section 62.072,
30 Water Code, the navigation and canal commissioners of
31 Chambers-Liberty Counties Navigation District are
32 appointed as provided by this section.

33 (b) The commissioners court of Chambers County
34 by a majority vote shall appoint two commissioners.
35 The commissioners court of Liberty County by a
36 majority vote shall appoint two commissioners. The two
37 commissioners courts shall appoint a fifth
38 commissioner at a joint meeting of the two
39 commissioners courts called and presided over by the

1 county judge of Chambers County.

2 (c) Each of the county judges and county
3 commissioners composing the commissioners courts of
4 both counties is entitled to one vote in appointing the
5 fifth commissioner. A majority vote of those present
6 at the meeting is sufficient to make the appointment.

7 Revised Law

8 Sec. 5019.0003. TERM OF OFFICE. Notwithstanding Section
9 62.065, Water Code, commissioners serve staggered four-year terms.
10 (Acts 76th Leg., R.S., Ch. 1145, Sec. 1(d).)

11 Source Law

12 (d) Notwithstanding Section 62.065, Water Code,
13 members of the commission of the Chambers-Liberty
14 Counties Navigation District serve staggered terms of
15 four years.

16 Revisor's Note
17 (End of Chapter)

18 (1) Section 2, Chapter 1145, Acts of the 76th
19 Legislature, Regular Session, 1999, provides
20 transition language concerning commissioner
21 appointments. The revised law omits the language as
22 executed. The omitted law reads:

23 Sec. 2. (a) On January 15, 2000, the
24 commissioners court of each county in the
25 Chambers-Liberty Counties Navigation
26 District shall appoint members to the
27 navigation and canal commission as provided
28 by Section 1 of this Act. One of the members
29 appointed by each county serves a term that
30 expires January 15, 2002. One of the
31 members appointed by each county and the
32 member appointed by the two counties
33 jointly serve terms that expire January 15,
34 2004.

35 (b) The term of a navigation and
36 canal commissioner of the Chambers-Liberty
37 Counties Navigation District serving
38 immediately before the effective date of
39 this Act expires January 15, 2000. This Act
40 does not prohibit a person who is a
41 navigation and canal commissioner on the
42 effective date of this Act from being
43 reappointed to the commission.

44 (2) Section 3, Chapter 1145, Acts of the 76th
45 Legislature, Regular Session, 1999, recites
46 legislative findings regarding procedural
47 requirements for legislation affecting the district
48 under the constitution and other laws and rules,
49 including proper legal notice and the filing of

1 recommendations. The revised law omits those
2 provisions as executed. The omitted law reads:

3 Sec. 3. (a) The proper and legal
4 notice of the intention to introduce this
5 Act, setting forth the general substance of
6 this Act, has been published as provided by
7 law, and the notice and a copy of this Act
8 have been furnished to all persons,
9 agencies, officials, or entities to which
10 they are required to be furnished by the
11 constitution and other laws of this state,
12 including the governor, who has submitted
13 the notice and Act to the Texas Natural
14 Resource Conservation Commission.

15 (b) The Texas Natural Resource
16 Conservation Commission has filed its
17 recommendations relating to this Act with
18 the governor, lieutenant governor, and
19 speaker of the house of representatives
20 within the required time.

21 (c) All requirements of the
22 constitution and laws of this state and the
23 rules and procedures of the legislature
24 with respect to the notice, introduction,
25 and passage of this Act are fulfilled and
26 accomplished.

27 TITLE 6. WATER AND WASTEWATER

28 SUBTITLE F. MUNICIPAL UTILITY DISTRICTS

29 CHAPTER 8018. HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 319

30 SUBCHAPTER A. GENERAL PROVISIONS

31 Sec. 8018.0001. DEFINITIONS 131
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33 Sec. 8018.0003. FINDINGS OF PUBLIC USE AND BENEFIT 133
34 Sec. 8018.0004. DISTRICT TERRITORY 133

35 SUBCHAPTER B. BOARD OF DIRECTORS

36 Sec. 8018.0051. COMPOSITION OF BOARD 135
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38 SUBCHAPTER C. POWERS AND DUTIES

39 Sec. 8018.0101. MUNICIPAL UTILITY DISTRICT POWERS 138
40 Sec. 8018.0102. WATER CONSERVATION PROGRAM 140

41 CHAPTER 8018. HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 319

42 SUBCHAPTER A. GENERAL PROVISIONS

43 Revised Law

44 Sec. 8018.0001. DEFINITIONS. In this chapter:

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

1 (2) "Director" means a member of the board.

2 (3) "District" means the Harris County Municipal
3 Utility District No. 319. (Acts 69th Leg., R.S., Ch. 787, Secs.
4 1(a) (part), 2; New.)

5 Source Law

6 Sec. 1. (a) . . . [a . . . district is created]
7 . . . to be known as "Harris County Municipal Utility
8 District No. 319,"

9 Sec. 2. In this Act, "district" means Harris
10 County Municipal Utility District No. 319.

11 Revisor's Note

12 The definitions of "board" and "director" are
13 added to the revised law for drafting convenience and
14 to eliminate frequent, unnecessary repetition of the
15 substance of the definitions.

16 Revised Law

17 Sec. 8018.0002. NATURE OF DISTRICT. The district is a
18 conservation and reclamation district in Harris County created
19 under Section 59, Article XVI, Texas Constitution. (Acts 69th Leg.,
20 R.S., Ch. 787, Sec. 1(a) (part).)

21 Source Law

22 Sec. 1. (a) Pursuant to Article XVI, Section
23 59, of the Texas Constitution a conservation and
24 reclamation district is created in Harris County,
25 Texas,

26 Revisor's Note

27 Section 1(a), Chapter 787, Acts of the 69th
28 Legislature, Regular Session, 1985, provides that the
29 district is a governmental agency and a body politic
30 and corporate. The revised law omits the provision
31 because it duplicates a portion of Section 59(b),
32 Article XVI, Texas Constitution, which provides that a
33 conservation and reclamation district is a
34 governmental agency and a body politic and corporate.
35 The omitted law reads:

36 (a) . . . [a conservation and
37 reclamation district is created] . . .
38 which shall be a governmental agency and a

1 body politic and corporate.

2 Revised Law

3 Sec. 8018.0003. FINDINGS OF PUBLIC USE AND BENEFIT. (a)

4 The district is created to serve a public use and benefit.

5 (b) All land and other property included in the district
6 will benefit from the works and projects accomplished by the
7 district under the powers conferred by Section 59, Article XVI,
8 Texas Constitution.

9 (c) The creation of the district is essential to accomplish
10 the purposes of Section 59, Article XVI, Texas Constitution. (Acts
11 69th Leg., R.S., Ch. 787, Secs. 1(b), 5.)

12 Source Law

13 [Sec. 1]

14 (b) The creation of the district is declared to
15 be essential to the accomplishment of the purposes of
16 Article XVI, Section 59, of the Texas Constitution.

17 Sec. 5. The legislature finds that all of the
18 land and other property included within the boundaries
19 of the district will be benefited by the works and
20 projects that are to be accomplished by the district
21 under powers conferred by Article XVI, Section 59, of
22 the Texas Constitution and that the district is
23 created to serve a public use and benefit.

24 Revised Law

25 Sec. 8018.0004. DISTRICT TERRITORY. (a) The district is
26 composed of the territory described by Section 3, Chapter 787, Acts
27 of the 69th Legislature, Regular Session, 1985, as that territory
28 may have been modified under:

- 29 (1) Subchapter J, Chapter 49, Water Code;
30 (2) Subchapter H, Chapter 54, Water Code; or
31 (3) other law.

32 (b) The boundaries and field notes of the district form a
33 closure. A mistake in the field notes or in copying the field notes
34 in the legislative process does not affect:

- 35 (1) the district's organization, existence, or
36 validity;
37 (2) the district's right to issue any type of bond for
38 a purpose for which the district is created or to pay the principal
39 of and interest on the bonds;

1 (3) the district's right to impose a tax; or

2 (4) the legality or operation of the district or its
3 governing body. (Acts 69th Leg., R.S., Ch. 787, Sec. 4; New.)

4 Source Law

5 Sec. 4. The legislature finds that the
6 boundaries and field notes of the district form a
7 closure. If any mistake is made in the field notes or
8 in copying the field notes in the legislative process,
9 it in no way affects the organization, existence, and
10 validity of the district, or the right of the district
11 to issue any type of bonds or refunding bonds for the
12 purposes for which the district is created or to pay
13 the principal of and interest on the bonds, or the
14 right of the district to levy and collect taxes, or in
15 any other manner affects the legality or operation of
16 the district or its governing body.

17 Revisor's Note

18 (1) The revision of the law governing the
19 district does not revise the statutory language
20 describing the territory of the district to avoid the
21 lengthy recitation of the description and because that
22 description may not be accurate on the effective date
23 of the revision or at the time of a later reading. For
24 the reader's convenience, the revised law includes
25 references to the statutory description of the
26 district's territory and to the authority to change the
27 district's territory under Subchapter J, Chapter 49,
28 Water Code, applicable to the district under Sections
29 49.001 and 49.002 of that chapter, and under
30 Subchapter H, Chapter 54, Water Code, applicable to
31 municipal utility districts. The revised law also
32 includes a reference to the general authority of the
33 legislature to enact a law to change the district's
34 territory.

35 (2) Section 4, Chapter 787, Acts of the 69th
36 Legislature, Regular Session, 1985, provides that a
37 mistake in the description of the district's
38 boundaries does not affect the right of the district to
39 issue "any type of bonds or refunding bonds." The

1 revised law omits the reference to "refunding bonds"
2 because refunding bonds are included in the meaning of
3 "any type of bonds."

4 (3) Section 4, Chapter 787, Acts of the 69th
5 Legislature, Regular Session, 1985, refers to the
6 district's authority to "levy and collect" taxes. The
7 revised law substitutes "impose" for "levy and
8 collect" because "impose" is the term generally used
9 in Title 1, Tax Code, and includes the levy and
10 collection of a tax.

11 SUBCHAPTER B. BOARD OF DIRECTORS

12 Revised Law

13 Sec. 8018.0051. COMPOSITION OF BOARD. The district is
14 governed by a board of five elected directors. (Acts 69th Leg.,
15 R.S., Ch. 787, Secs. 8(a), (b) (part).)

16 Source Law

17 Sec. 8. (a) The district is governed by a board
18 of five directors.

19 (b) . . . each director shall be elected and
20

21 Revisor's Note

22 (1) Section 8(b), Chapter 787, Acts of the 69th
23 Legislature, Regular Session, 1985, provides that
24 except for the initial directors, each director shall
25 serve for the term of office provided for directors
26 under Chapter 54, Water Code. Because the terms of the
27 initial directors have expired, the revised law omits
28 the provision as executed. The revised law also omits
29 the provision relating to the term of office of
30 directors because Chapter 715, Acts of the 74th
31 Legislature, Regular Session, 1995, repealed the
32 relevant provisions of Chapter 54, Water Code, and
33 enacted Section 49.103, Water Code, to govern the term
34 of office of a director of a municipal utility
35 district. Chapter 49, Water Code, applies to the

1 district under Sections 49.001 and 49.002, Water Code.
2 Finally, Section 8(b) provides that each director
3 shall serve until the director's successor is elected
4 and has qualified. The revised law omits the provision
5 because it duplicates in substance Section 17, Article
6 XVI, Texas Constitution, which requires an officer to
7 continue to perform the officer's duties until a
8 successor has qualified. The omitted law reads:

9 (b) Except for the initial directors,
10 [each director] . . . shall serve for the
11 term of office provided for directors under
12 Chapter 54, Water Code, and until his
13 successor is elected and has qualified.

14 (2) Section 8(c), Chapter 787, Acts of the 69th
15 Legislature, Regular Session, 1985, provides that each
16 director shall qualify to serve as director in the
17 manner provided by Chapter 54, Water Code. The revised
18 law omits Section 8(c) because, as explained in
19 Revisor's Note (1), the relevant provisions of Chapter
20 54 were repealed, and similar provisions, including
21 provisions governing the qualifications of directors,
22 were enacted in Chapter 49, Water Code, which applies
23 to the district under Sections 49.001 and 49.002 of
24 that chapter. The omitted law reads:

25 (c) Each director shall qualify to
26 serve as director in the manner provided by
27 Chapter 54, Water Code.

28 Revised Law

29 Sec. 8018.0052. BOARD VACANCY. (a) Except as provided by
30 Subsection (b), a vacancy in the office of director shall be filled
31 in the manner provided by Section 49.105, Water Code.

32 (b) The Texas Commission on Environmental Quality shall
33 appoint directors to fill the vacancies on the board whenever the
34 number of qualified directors is fewer than three. (Acts 69th Leg.,
35 R.S., Ch. 787, Sec. 8(e) (part); New.)

36 Source Law

37 (e) . . . If at any time the number of qualified

1 directors is less than three because of the failure or
2 refusal of one or more directors to qualify or serve,
3 because of death or incapacitation, or for any other
4 reason, the Texas Water Commission shall appoint the
5 necessary number of directors to fill all vacancies on
6 the board.

7 Revisor's Note

8 (1) Section 8(e), Chapter 787, Acts of the 69th
9 Legislature, Regular Session, 1985, refers to a
10 vacancy in the office of director "because of the
11 failure or refusal of one or more directors to qualify
12 or serve, because of death or incapacitation, or for
13 any other reason." The revised law omits the quoted
14 language because it merely describes every manner in
15 which a vacancy may occur without limiting in any way
16 the board's duty to fill a vacancy.

17 (2) Section 49.105, Water Code, governs a
18 vacancy in the office of director of certain
19 districts, including a municipal utility district.
20 Chapter 49, Water Code, applies to the district under
21 Sections 49.001 and 49.002 of that chapter. For that
22 reason and for the convenience of the reader, the
23 revised law adds a reference to Section 49.105.

24 (3) Section 8(e), Chapter 787, Acts of the 69th
25 Legislature, Regular Session, 1985, refers to the
26 "Texas Water Commission." The revised law substitutes
27 "Texas Commission on Environmental Quality" for "Texas
28 Water Commission" to reflect the current name of the
29 agency with the relevant regulatory authority.

30 Revisor's Note
31 (End of Subchapter)

32 (1) Sections 8(d) and (f), Chapter 787, Acts of
33 the 69th Legislature, Regular Session, 1985, name the
34 district's initial directors and describe their terms
35 of office. Because the terms of the initial directors
36 have expired, the revised law omits the provisions as
37 executed. The omitted law reads:

1 (d) At the time this Act takes
2 effect, the following persons shall
3 constitute the initial board of directors
4 of the district:

- 5 (1) Brenton Harvey
- 6 (2) Wyn Hyzer
- 7 (3) Donna Mullenix
- 8 (4) Anne C. Welch
- 9 (5) Sue Westhoff

10 (f) The initial directors shall serve
11 until permanent directors are elected as
12 provided by Chapter 54, Water Code.

13 (2) Section 8(e), Chapter 787, Acts of the 69th
14 Legislature, Regular Session, 1985, provides
15 procedures for filling a vacancy in the initial board
16 of directors because of the failure of a member of the
17 initial board of directors to qualify for office. The
18 revised law omits the provision as executed because
19 the terms of the initial directors have expired. The
20 omitted law reads:

21 (e) If any of the directors listed in
22 Subsection (d) of this section fails to
23 qualify for office, the remaining directors
24 shall appoint someone to fill the vacancy
25 for the unexpired term. . . .

26 (3) Section 9, Chapter 787, Acts of the 69th
27 Legislature, Regular Session, 1985, requires an
28 election to confirm the establishment of the district
29 and to elect the initial five permanent directors. The
30 revised law omits that provision as executed because
31 the election has been held. The omitted law reads:

32 Sec. 9. An election shall be called
33 and held to confirm establishment of the
34 district and to elect five permanent
35 directors as provided by Chapter 54, Water
36 Code.

37 SUBCHAPTER C. POWERS AND DUTIES

38 Revised Law

39 Sec. 8018.0101. MUNICIPAL UTILITY DISTRICT POWERS. The
40 district has the rights, powers, privileges, and functions provided
41 by general law, including Chapters 49 and 54, Water Code,
42 applicable to a municipal utility district created under Section
43 59, Article XVI, Texas Constitution. (Acts 69th Leg., R.S., Ch.

1 787, Sec. 6(a) (part); New.)

2 Source Law

3 Sec. 6. (a) The district has all of the rights,
4 powers, privileges, authority, and functions
5 conferred by the general laws of this state applicable
6 to municipal utility districts created under Article
7 XVI, Section 59, of the Texas Constitution, including
8 those conferred by Chapter 54, Water Code. . . .

9 Revisor's Note

10 (1) Section 6(a), Chapter 787, Acts of the 69th
11 Legislature, Regular Session, 1985, refers to the
12 "rights, powers, privileges, [and] authority" of the
13 district. The revised law omits "authority" because,
14 in context, "authority" is included in the meaning of
15 "rights, powers, [and] privileges."

16 (2) Section 6(a), Chapter 787, Acts of the 69th
17 Legislature, Regular Session, 1985, refers to Chapter
18 54, Water Code. For the reader's convenience, the
19 revised law adds a reference to Chapter 49, Water Code,
20 because Chapter 715, Acts of the 74th Legislature,
21 Regular Session, 1995, repealed many provisions of
22 Chapter 54 and enacted similar provisions in Chapter
23 49, Water Code. Chapter 49 applies to municipal
24 utility districts under Sections 49.001 and 49.002,
25 Water Code.

26 (3) Section 6(a), Chapter 787, Acts of the 69th
27 Legislature, Regular Session, 1985, provides that the
28 act prevails over general law in case of a conflict or
29 other inconsistency. The revised law omits the
30 provision because it duplicates in substance Section
31 311.026, Government Code (Code Construction Act). The
32 omitted law reads:

33 (a) . . . If any provision of the
34 general law is in conflict or inconsistent
35 with this Act, this Act prevails.

36 (4) Section 6(b), Chapter 787, Acts of the 69th
37 Legislature, Regular Session, 1985, provides that any

1 general laws not in conflict or inconsistent with the
2 provisions of the act are adopted and incorporated by
3 reference. The revised law omits the provision
4 because Section 6(a), Chapter 787, revised as this
5 section, provides that those general laws apply to the
6 district, and it is not necessary to duplicate that
7 applicability by adopting and incorporating the
8 general law by reference. The omitted law reads:

9 (b) Any general law not in conflict
10 or inconsistent with this Act is adopted and
11 incorporated by reference.

12 (5) Section 6(c), Chapter 787, Acts of the 69th
13 Legislature, Regular Session, 1985, refers to the
14 continuing right of supervision to be exercised by the
15 Texas Department of Water Resources. The revised law
16 omits the provision because the Texas Commission on
17 Environmental Quality is the successor to the Texas
18 Department of Water Resources, and therefore the
19 provision duplicates in substance part of Section
20 12.081, Water Code, which applies to the district. The
21 omitted law reads:

22 (c) The rights, powers, privileges,
23 authority, and functions granted to the
24 district are subject to the continuing
25 right of supervision of the State of Texas
26 to be exercised by and through the Texas
27 Department of Water Resources.

28 Revised Law

29 Sec. 8018.0102. WATER CONSERVATION PROGRAM. (a) In this
30 section, "water conservation program" means the practices,
31 techniques, and technologies that will reduce water consumption,
32 reduce water loss or waste, improve efficiency in water use, or
33 increase water recycling and reuse so that a water supply is
34 available for future or alternative uses.

35 (b) The district shall adopt and implement a water
36 conservation program consistent with rules and criteria adopted and
37 enforceable by the Texas Commission on Environmental Quality for

1 similarly situated districts in the region. (Acts 69th Leg., R.S.,
2 Ch. 787, Sec. 7.)

3 Source Law

4 Sec. 7. The district shall adopt and implement a
5 program of water conservation consistent with rules
6 and criteria duly adopted and enforceable by the Texas
7 Department of Water Resources for similarly situated
8 districts in the region. A program of water
9 conservation means the practices, techniques, and
10 technologies which will reduce the consumption of
11 water, reduce the loss or waste of water, improve
12 efficiency in the use of water, or increase the
13 recycling and reuse of water so that a water supply is
14 made available for future or alternative uses.

15 Revisor's Note

16 (1) Section 7, Chapter 787, Acts of the 69th
17 Legislature, Regular Session, 1985, refers to "duly"
18 adopted rules and criteria. The revised law omits
19 "duly" as unnecessary in this context because the word
20 does not add to the clear meaning of the law.

21 (2) Section 7, Chapter 787, Acts of the 69th
22 Legislature, Regular Session, 1985, refers to the
23 "Texas Department of Water Resources." The revised
24 law substitutes "Texas Commission on Environmental
25 Quality" for "Texas Department of Water Resources" to
26 reflect the current name of the agency with the
27 relevant regulatory authority.

28 Revisor's Note
29 (End of Chapter)

30 Section 10, Chapter 787, Acts of the 69th
31 Legislature, Regular Session, 1985, recites
32 legislative findings regarding procedural
33 requirements for the creation of the district under
34 the constitution and other laws and rules, including
35 proper legal notice and the filing of recommendations.
36 The revised law omits those provisions as executed.
37 The omitted law reads:

38 Sec. 10. The legislature finds that
39 proper and legal notice of the intention to
40 introduce this Act, setting forth the
41 general substance of this Act, has been

1 published as provided by law, and the notice
 2 and a copy of this Act have been furnished
 3 to all persons, agencies, officials, or
 4 entities to which they are required to be
 5 furnished by the constitution and laws of
 6 this state, including the governor of
 7 Texas, who has submitted the notice and Act
 8 to the Texas Water Commission. The
 9 legislature also finds that the Texas Water
 10 Commission has filed its recommendations
 11 relating to this Act with the governor,
 12 lieutenant governor, and speaker of the
 13 house of representatives within the
 14 required time. The general law relating to
 15 consent by political subdivisions to the
 16 creation of conservation and reclamation
 17 districts and the inclusion of land in those
 18 districts has been complied with, and all
 19 requirements of the constitution and laws
 20 of this state and the rules and procedures
 21 of the legislature with respect to the
 22 notice, introduction, and passage of this
 23 Act have been fulfilled and accomplished.

24 CHAPTER 8020. POLK COUNTY FRESH WATER SUPPLY DISTRICT NO. 2

25 SUBCHAPTER A. GENERAL PROVISIONS

26 Sec. 8020.0001. DEFINITION 142
 27 Sec. 8020.0002. NATURE OF DISTRICT 143
 28 Sec. 8020.0003. DISTRICT TERRITORY 143
 29 Sec. 8020.0004. DISTRICT NAME CHANGE 144

30 SUBCHAPTER B. POWERS AND DUTIES

31 Sec. 8020.0051. MUNICIPAL UTILITY DISTRICT POWERS 145

32 CHAPTER 8020. POLK COUNTY FRESH WATER SUPPLY DISTRICT NO. 2

33 SUBCHAPTER A. GENERAL PROVISIONS

34 Revised Law

35 Sec. 8020.0001. DEFINITION. In this chapter, "district"
 36 means the Polk County Fresh Water Supply District No. 2. (Acts 75th
 37 Leg., R.S., Ch. 814, Sec. 1 (part); New.)

38 Source Law

39 Sec. 1. Polk County Fresh Water Supply District
 40 No. 2,

41 Revisor's Note

42 The definition of "district" is added to the
 43 revised law for drafting convenience and to eliminate
 44 frequent, unnecessary repetition of the substance of
 45 the definition.

1 Revised Law

2 Sec. 8020.0002. NATURE OF DISTRICT. The district is a
3 municipal utility district converted from a fresh water supply
4 district by Chapter 814, Acts of the 75th Legislature, Regular
5 Session, 1997. (Acts 75th Leg., R.S., Ch. 814, Sec. 1 (part);
6 New.)

7 Source Law

8 Sec. 1. [Polk County Fresh Water Supply
9 District No. 2,] created under the authority of
10 Chapter 53, Water Code, is hereby converted to a
11 municipal utility district

12 Revisor's Note

13 Section 1, Chapter 814, Acts of the 75th
14 Legislature, Regular Session, 1997, provided that the
15 district was "created under the authority of Chapter
16 53, Water Code," and converted the district from a
17 fresh water supply district to a municipal utility
18 district. The revised law omits that language as
19 executed. For the reader's convenience, the revised
20 law adds a statement that acknowledges the conversion
21 of the district.

22 Revised Law

23 Sec. 8020.0003. DISTRICT TERRITORY. (a) The district's
24 boundaries are those confirmed by Section 3, Chapter 814, Acts of
25 the 75th Legislature, Regular Session, 1997, as those boundaries
26 may have been modified under:

- 27 (1) Subchapter J, Chapter 49, Water Code;
28 (2) Subchapter H, Chapter 54, Water Code; or
29 (3) other law.

30 (b) The confirmation of boundaries described by Subsection
31 (a):

32 (1) does not enlarge or diminish the district as it
33 existed on September 1, 1997; and

34 (2) includes the property in the district that was
35 being served or taxed on September 1, 1997. (Acts 75th Leg., R.S.,

1 Ch. 814, Sec. 3 (part); New.)

2 Source Law

3 Sec. 3. The boundaries of Polk County Fresh
4 Water Supply District No. 2 are hereby confirmed as
5 follows:

6
7 This confirmation of boundaries does not enlarge or
8 diminish the district as it exists and includes the
9 property in the district that is being served or taxed
10 on September 1, 1997.

11 Revisor's Note

12 The revision of the law governing the district
13 does not revise the statutory language describing the
14 territory of the district to avoid the lengthy
15 recitation of the description and because that
16 description may not be accurate on the effective date
17 of the revision or at the time of a later reading. For
18 the reader's convenience, the revised law includes a
19 reference to the statutory description of the
20 district's territory and references to authority to
21 change the district's territory, including: (1)
22 Subchapter J, Chapter 49, Water Code, applicable to
23 the district under Sections 49.001 and 49.002 of that
24 chapter and (2) Subchapter H, Chapter 54, Water Code,
25 applicable to the district after the district was
26 converted to a municipal utility district governed by
27 Chapter 54 of that code (see Sections 54.034 and 54.035
28 of that code and Section 8020.0002). The revised law
29 also includes a reference to the general authority of
30 the legislature to enact other laws to change the
31 district's territory.

32 Revised Law

33 Sec. 8020.0004. DISTRICT NAME CHANGE. The district's board
34 of directors may change the name of the district in an open meeting
35 for which proper notice has been given. (Acts 75th Leg., R.S.,
36 Ch. 814, Sec. 2.)

1 Revisor's Note

2 Section 1, Chapter 814, Acts of the 75th
3 Legislature, Regular Session, 1997, refers to "rights,
4 powers, privileges, [and] authority" of the district.
5 The revised law omits "authority" as included in the
6 meaning of "powers."

7 Revisor's Note
8 (End of Chapter)

9 Section 4, Chapter 814, Acts of the 75th
10 Legislature, Regular Session, 1997, provides for the
11 continuity of service for directors serving on August
12 31, 1997, related to the conversion of the district.
13 The revised law omits that provision as executed. The
14 omitted law reads:

15 Sec. 4. A director of the district
16 serving on August 31, 1997, is a director of
17 the converted district on September 1,
18 1997, and shall serve until the term for
19 which the director was elected expires.

20 CHAPTER 8021. LAKEWAY MUNICIPAL UTILITY DISTRICT

21 Sec. 8021.0001. DEFINITIONS 146
22 Sec. 8021.0002. EXCLUSION OF LAND 147
23 Sec. 8021.0003. NOTICE OF HEARING 148
24 Sec. 8021.0004. EXCLUSION WITH BOND REFUNDING 149
25 Sec. 8021.0005. APPLICABILITY OF CERTAIN OTHER LAW 149

26 CHAPTER 8021. LAKEWAY MUNICIPAL UTILITY DISTRICT

27 Revised Law

28 Sec. 8021.0001. DEFINITIONS. In this chapter:

29 (1) "Board" means the board of directors of the
30 district.

31 (2) "District" means the Lakeway Municipal Utility
32 District, Travis County. (Acts 75th Leg., R.S., Ch. 1272, Sec. 1.)

33 Source Law

34 Sec. 1. In this Act:

35 (1) "District" means Lakeway Municipal
36 Utility District, Travis County, Texas, created by
37 order of the Texas Water Rights Commission on February
38 17, 1972.

39 (2) "Board" means the board of directors

1 of the district.

2 Revisor's Note

3 Section 1, Chapter 1272, Acts of the 75th
4 Legislature, Regular Session, 1997, provides that the
5 district was "created by order of the Texas Water
6 Rights Commission on February 17, 1972." The revised
7 law omits the quoted language as unnecessary to
8 accurately name the district.

9 Revised Law

10 Sec. 8021.0002. EXCLUSION OF LAND. (a) The board may, at
11 its discretion, call a hearing to consider excluding land from the
12 district or determine not to call a hearing to exclude land from the
13 district.

14 (b) If the board holds a hearing under Subsection (a), the
15 board may by order exclude land from the district on any of the
16 grounds for exclusion provided by Section 49.306, Water Code,
17 provided that:

18 (1) the board receives a petition, signed by the
19 owners of the land to be excluded and consented to by all
20 lienholders, requesting exclusion of the land as described by metes
21 and bounds; and

22 (2) the owners of the land pay to the district a
23 payment and any other fees or costs required by the district. (Acts
24 75th Leg., R.S., Ch. 1272, Sec. 2.)

25 Source Law

26 Sec. 2. The board in its sole discretion may
27 call a hearing to consider excluding land from the
28 district, or the board may determine not to call a
29 hearing to exclude land from the district. If the
30 board holds a hearing, the board may by order exclude
31 from the district land within the district boundaries
32 on any of the grounds for exclusion included in Section
33 49.306, Water Code, if:

34 (1) the board receives a petition, signed
35 by the owners of the land to be excluded and consented
36 to by all persons holding liens on the land, requesting
37 exclusion of the land as described by metes and bounds;
38 and

39 (2) the owners of the land pay to the
40 district a payment and any other fees or costs required
41 by the district.

1 Revisor's Note

2 Section 2, Chapter 1272, Acts of the 75th
3 Legislature, Regular Session, 1997, refers to the
4 board calling a hearing to consider excluding land
5 from the district "in its sole discretion." The
6 revised law omits "sole" because, in context, "sole"
7 is included within the meaning of "at its discretion."

8 Revised Law

9 Sec. 8021.0003. NOTICE OF HEARING. (a) Except as provided
10 by Section 8021.0004, in addition to the notice required by Section
11 49.304, Water Code, the district shall, not later than the 30th day
12 before the date of the exclusion hearing under Section
13 8021.0002(a):

14 (1) publish notice of the exclusion hearing in a
15 nationally recognized financial journal; and

16 (2) mail notice of the exclusion hearing by certified
17 mail to the paying agent or registrar of the district's outstanding
18 bonds.

19 (b) The notice required by Subsection (a) must advise any
20 district bondholder, taxpayer, or other interested party that the
21 person may appear at the exclusion hearing in support of or in
22 opposition to the petition for exclusion. (Acts 75th Leg., R.S.,
23 Ch. 1272, Sec. 3; New.)

24 Source Law

25 Sec. 3. In addition to the notice required by
26 Section 49.304, Water Code, the district shall publish
27 notice of the exclusion hearing in a nationally
28 recognized financial journal and shall mail notice by
29 certified mail to the paying agent or registrar of the
30 district's outstanding bonds. The notice shall be
31 published and mailed not later than the 30th day before
32 the hearing date, advising any district bondholder,
33 taxpayer, or other interested party that the person
34 may appear at the exclusion hearing in support of or in
35 opposition to the petition for exclusion.

36 Revisor's Note

37 Section 3, Chapter 1272, Acts of the 75th
38 Legislature, Regular Session, 1997, establishes
39 notice requirements for exclusion hearings. Section 4

1 of Chapter 1272, revised as Section 8021.0004,
2 provides an exception to those notice requirements.
3 For the reader's convenience, the revised law adds a
4 reference to the exception.

5 Revised Law

6 Sec. 8021.0004. EXCLUSION WITH BOND REFUNDING. (a) Land
7 may be excluded as authorized by this chapter in conjunction with a
8 refunding of the district's outstanding bonds.

9 (b) If land is excluded in the manner provided by Subsection
10 (a), the only notice required is the notice specified by Section
11 49.304, Water Code. (Acts 75th Leg., R.S., Ch. 1272, Sec. 4.)

12 Source Law

13 Sec. 4. The exclusion authorized by this Act may
14 be done contemporaneously with a refunding of the
15 district's outstanding bonds. If the exclusion is done
16 in that manner, the only notice required is the notice
17 specified by Section 49.304, Water Code.

18 Revisor's Note

19 Section 4, Chapter 1272, Acts of the 75th
20 Legislature, Regular Session, 1997, authorizes land to
21 be excluded "contemporaneously with" a refunding of
22 the district's outstanding bonds. The revised law
23 substitutes "in conjunction with" for the quoted
24 language because, in context, the meaning is the same
25 and "in conjunction with" is more commonly used.

26 Revised Law

27 Sec. 8021.0005. APPLICABILITY OF CERTAIN OTHER LAW.
28 Sections 49.307 and 49.308, Water Code, apply to an exclusion of
29 land carried out under this chapter. (Acts 75th Leg., R.S., Ch.
30 1272, Sec. 5.)

31 Source Law

32 Sec. 5. Sections 49.307 and 49.308, Water Code,
33 apply to all exclusions of land under this Act.

34 CHAPTER 8022. TANGLEWOOD FOREST LIMITED DISTRICT

35 SUBCHAPTER A. GENERAL PROVISIONS

36 Sec. 8022.0001. DEFINITION 150

1 SUBCHAPTER B. FINANCIAL PROVISIONS

2 Sec. 8022.0051. USE OF GENERAL OPERATING FUNDS 150

3 CHAPTER 8022. TANGLEWOOD FOREST LIMITED DISTRICT

4 SUBCHAPTER A. GENERAL PROVISIONS

5 Revised Law

6 Sec. 8022.0001. DEFINITION. In this chapter, "district"
7 means the Tanglewood Forest Limited District. (Acts 74th Leg.,
8 R.S., Ch. 675, Sec. 1.)

9 Source Law

10 Sec. 1. In this Act, "district" means the
11 Tanglewood Forest Municipal Utility District.

12 Revisor's Note

13 Section 1, Chapter 675, Acts of the 74th
14 Legislature, Regular Session, 1995, refers to the
15 "Tanglewood Forest Municipal Utility District." The
16 revised law substitutes "Tanglewood Forest Limited
17 District" to reflect a change in the district's name.
18 In 1997, the district entered into a strategic
19 partnership agreement with the City of Austin under
20 Section 43.0751, Local Government Code. In the
21 agreement, the parties specified that after the
22 execution of the agreement the district would be known
23 as the Tanglewood Forest Limited District. The
24 revised law is drafted accordingly.

25 SUBCHAPTER B. FINANCIAL PROVISIONS

26 Revised Law

27 Sec. 8022.0051. USE OF GENERAL OPERATING FUNDS.
28 Notwithstanding Section 54.236, Water Code, the district may use
29 general operating funds to install, operate, and maintain street or
30 security lighting in an area in the district:

31 (1) that has had water utilities and streets installed
32 for not less than eight years; and

33 (2) in which the developer of the area has not
34 installed street or security lighting as required as a condition of

1 the municipality's granting its consent to the creation of the
2 district under Section 54.016, Water Code. (Acts 74th Leg., R.S.,
3 Ch. 675, Sec. 2.)

4 Source Law

5 Sec. 2. Notwithstanding Section 54.236, Water
6 Code, the district may use general operating funds to
7 install, operate, and maintain street or security
8 lighting in an area in the district:

9 (1) that has had water utilities and
10 streets installed for not less than eight years; and

11 (2) in which the developer of the area has
12 not installed street or security lighting as required
13 as a condition to the municipality's granting its
14 consent to the creation of the district under Section
15 54.016, Water Code.

16 Revisor's Note

17 Section 2, Chapter 675, Acts of the 74th
18 Legislature, Regular Session, 1995, refers to "a
19 condition to the municipality's granting its consent."
20 The revised law substitutes "a condition of the
21 municipality's granting its consent" for the quoted
22 language because the phrases are synonymous in context
23 and "a condition of the municipality's granting its
24 consent" is more consistent with modern usage.

25 CHAPTER 8023. THE WOODLANDS METRO CENTER MUNICIPAL UTILITY DISTRICT

26 Sec. 8023.0001. DEFINITION 151

27 Sec. 8023.0002. EXCLUSION OF TERRITORY 152

28 Sec. 8023.0003. ANNEXATION OR ADDITION OF TERRITORY 154

29 CHAPTER 8023. THE WOODLANDS METRO CENTER MUNICIPAL UTILITY DISTRICT

30 Revised Law

31 Sec. 8023.0001. DEFINITION. In this chapter, "district"
32 means The Woodlands Metro Center Municipal Utility District, of
33 Montgomery County, Texas. (Acts 72nd Leg., R.S., Ch. 322, Sec.
34 1(2).)

35 Source Law

36 Sec. 1. In this Act:

37 (2) "District" means The Woodlands Metro
38 Center Municipal Utility District, of Montgomery
39 County, Texas.

1 Revisor's Note

2 Section 1(1), Chapter 322, Acts of the 72nd
3 Legislature, Regular Session, 1991, defines "board."
4 The revised law omits the definition because the term
5 is not used elsewhere in Chapter 322, which is revised
6 as this chapter. The omitted law reads:

7 (1) "Board" means the board of
8 directors of The Woodlands Metro Center
9 Municipal Utility District, of Montgomery
10 County, Texas.

11 Revised Law

12 Sec. 8023.0002. EXCLUSION OF TERRITORY. (a) The district
13 may exclude territory from the district after a bond election has
14 been called or bonds have been issued only if:

15 (1) the exclusion of the territory is not expressly
16 prohibited by the orders or resolutions calling the bond election
17 or authorizing the issuance of the bonds;

18 (2) the district annexes or adds territory into the
19 district that is sufficient to avoid an impairment of the security
20 for payment of the voted or issued bonds and of any other contract
21 obligations that are wholly or partly payable from or secured by ad
22 valorem taxes or net revenues of the district; and

23 (3) the exclusion and addition of territory is
24 accomplished in conformity with the notice and hearing requirements
25 relating to the exclusion and addition of territory prescribed by
26 Subchapter J, Chapter 49, Water Code.

27 (b) The district must finally annex or include the
28 additional territory prescribed by Subsection (a)(2)
29 simultaneously with the exclusion of the territory or not earlier
30 than the 30th day before the date the territory is excluded.

31 (c) Before the effective date of the exclusion, the district
32 must receive from the territory proposed to be excluded payments of
33 all rates, fees, and charges for water, sewer, or other district
34 services provided to the territory, and of all ad valorem taxes,
35 standby fees, and associated penalties and interest relating to the

1 territory, that are due or overdue.

2 (d) If ad valorem taxes or standby fees have not been
3 established for the year in which the territory is to be excluded,
4 the territory shall pay an amount determined by the district to be
5 equal to the estimated ad valorem taxes or standby fees the district
6 will establish for the year. (Acts 72nd Leg., R.S., Ch. 322, Sec.
7 2.)

8 Source Law

9 Sec. 2. (a) The district may exclude territory
10 from the district after a bond election has been called
11 or bonds issued only if:

12 (1) the exclusion of the territory is not
13 expressly prohibited by the orders or resolutions
14 calling the bond election or authorizing the issuance
15 of the bonds;

16 (2) the district annexes or adds territory
17 into the district that is sufficient to avoid an
18 impairment of the security for payment of the voted or
19 issued bonds and of any other contract obligations
20 that are in whole or in part payable from or secured by
21 ad valorem taxes or net revenues of the district; and

22 (3) the exclusion and addition of
23 territory is accomplished as prescribed by this Act
24 and in conformity with the notice and hearing
25 requirements relating to the exclusion and addition of
26 territory prescribed by Chapter 54, Water Code.

27 (b) The district must finally annex or include
28 the additional territory prescribed by Subsection
29 (a)(2) of this section simultaneously with the
30 exclusion of the territory or not more than 30 days
31 before the date on which the territory is excluded.

32 (c) Before the effective date of the exclusion,
33 the district must receive from the territory proposed
34 to be excluded payments of all rates, fees, and charges
35 for water, sewer, or other district services provided
36 to the territory, and of all ad valorem taxes, standby
37 fees, and associated penalties and interest relating
38 to the territory, that are due or overdue. If ad
39 valorem taxes or standby fees have not been
40 established for the year in which the territory is to
41 be excluded, the territory shall pay an amount
42 determined by the district to be equal to the estimated
43 ad valorem taxes or standby fees the district will
44 establish for the year.

45 Revisor's Note

46 (1) Section 2(a)(3), Chapter 322, Acts of the
47 72nd Legislature, Regular Session, 1991, provides that
48 the district may exclude territory from the district
49 and add territory to the district after a bond election
50 has been called or bonds issued only if the exclusion
51 and addition is accomplished "in conformity with the

1 notice and hearing requirements relating to the
2 exclusion and addition of territory prescribed by
3 Chapter 54, Water Code." The revised law substitutes a
4 reference to Subchapter J, Chapter 49, Water Code, for
5 the reference to Chapter 54, Water Code, because the
6 notice and hearing requirements for the addition or
7 exclusion of territory by a municipal utility district
8 in Chapter 54 were repealed by Section 43, Chapter 715,
9 Acts of the 74th Legislature, Regular Session, 1995,
10 and replaced with substantively similar requirements
11 in Subchapter J, Chapter 49, by Section 2 of that act.
12 Chapter 49, Water Code, applies to the district under
13 Sections 49.001 and 49.002 of that chapter.

14 (2) Section 2(a)(3), Chapter 322, Acts of the
15 72nd Legislature, Regular Session, 1991, provides that
16 the district may exclude and add territory if the
17 exclusion and addition is accomplished as prescribed
18 by Chapter 322. The revised law omits the provision
19 because the procedures to exclude and add territory in
20 Chapter 322 apply to the district on their own terms.

21 Revised Law

22 Sec. 8023.0003. ANNEXATION OR ADDITION OF TERRITORY. (a)
23 Territory annexed or added to the district is sufficient to avoid an
24 impairment of the security for payment of an obligation of the
25 district if:

26 (1) the taxable value of the additional territory is
27 equal to or greater than the taxable value of the excluded
28 territory, as determined by the most recent certified county
29 property tax rolls; and

30 (2) the estimated cost to provide district facilities
31 and services to the additional territory is equal to or less than
32 the estimated cost to provide district facilities and services to
33 the excluded territory, as determined by the district's engineer.

34 (b) In addition to the requirements of Subsection (a), if

1 the district's outstanding bonds or contract obligations are wholly
2 or partly payable from or secured by the net revenues from the
3 ownership or operation of the district's waterworks or sewer
4 systems, the projected net revenues to be derived from the
5 additional territory during the period ending on the anniversary of
6 the date on which the territory is added must be equal to or greater
7 than the projected net revenues that would be derived during that
8 period from the excluded territory, as determined by the district's
9 engineer. (Acts 72nd Leg., R.S., Ch. 322, Sec. 3.)

10 Source Law

11 Sec. 3. (a) Territory annexed or added to the
12 district is sufficient to avoid an impairment of the
13 security for payment of an obligation of the district
14 if:

15 (1) the taxable value of the additional
16 territory is equal to or greater than the taxable value
17 of the excluded territory, as determined by the most
18 recent certified county property tax rolls; and

19 (2) the estimated cost to provide district
20 facilities and services to the additional territory is
21 equal to or less than the estimated cost to provide
22 district facilities and services to the excluded
23 territory, as determined by the district's engineer.

24 (b) In addition to the requirements of
25 Subsection (a) of this section, if the district's
26 outstanding bonds or contract obligations are in whole
27 or in part payable from or secured by the net revenues
28 from the ownership or operation of the district's
29 waterworks or sewer systems, the projected net
30 revenues to be derived from the additional territory
31 during the period ending on the anniversary of the date
32 on which the territory is added must be equal to or
33 greater than the projected net revenues that would be
34 derived during that period from the excluded
35 territory, as determined by the district's engineer.

36 Revisor's Note
37 (End of Chapter)

38 (1) Section 4, Chapter 322, Acts of the 72nd
39 Legislature, Regular Session, 1991, refers to the
40 cumulative effect of the act. The revised law omits
41 that provision because an accepted general principle
42 of statutory construction requires a statute to be
43 given cumulative effect with other statutes unless it
44 provides otherwise or unless the statutes are in
45 conflict. The general principle applies to this
46 revision. The omitted law reads:

1 Sec. 4. This Act is cumulative and in
2 addition to the rights, powers, and
3 authority to exclude territory that is
4 conferred on the district by general
5 law. . . .

6 (2) Section 4, Chapter 322, Acts of the 72nd
7 Legislature, Regular Session, 1991, provides that the
8 act prevails over general law in case of a conflict or
9 other inconsistency. The revised law omits that
10 provision because it duplicates in substance Section
11 311.026(b), Government Code (Code Construction Act).
12 The omitted law reads:

13 Sec. 4. . . . If a provision of this
14 Act conflicts with or is inconsistent with
15 the general law, this Act prevails.

16 CHAPTER 8024. BAYBROOK MUNICIPAL UTILITY DISTRICT NO. 1

17 SUBCHAPTER A. GENERAL PROVISIONS

18 Sec. 8024.0001. DEFINITIONS 156
19 Sec. 8024.0002. FINDINGS OF PUBLIC USE AND BENEFIT 157
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29 CHAPTER 8024. BAYBROOK MUNICIPAL UTILITY DISTRICT NO. 1

30 SUBCHAPTER A. GENERAL PROVISIONS

31 Revised Law

32 Sec. 8024.0001. DEFINITIONS. In this chapter:

33 (1) "City" means the City of Houston, Texas.

34 (2) "District" means the Baybrook Municipal Utility
35 District No. 1. (Acts 77th Leg., R.S., Ch. 1386, Secs. 2(2), (3).)

36 Source Law

37 Sec. 2. In this Act:

1 (2) "City" means the City of Houston,
2 Texas.

3 (3) "District" means the Baybrook
4 Municipal Utility District No. 1.

5 Revisor's Note

6 Section 2, Chapter 1386, Acts of the 77th
7 Legislature, Regular Session, 2001, defines
8 "[b]oard." The revised law omits the definition as
9 unnecessary because that term is not used elsewhere in
10 Chapter 1386. The omitted law reads:

11 (1) "Board" means the board of
12 directors of the Baybrook Municipal Utility
13 District No. 1.

14 Revised Law

15 Sec. 8024.0002. FINDINGS OF PUBLIC USE AND BENEFIT. (a)
16 The district is created to serve a public use and benefit.

17 (b) All land and other property included in the district
18 will benefit from the works and projects accomplished by the
19 district under the powers conferred by Section 52, Article III,
20 Texas Constitution. (Acts 77th Leg., R.S., Ch. 1386, Sec. 3.)

21 Source Law

22 Sec. 3. The legislature finds that all of the
23 land and other property included within the boundaries
24 of the district will be benefited by the works and
25 projects that are to be accomplished by the district
26 under the powers conferred by Section 52, Article III,
27 Texas Constitution, and that the district is created
28 to serve a public use and benefit.

29 Revised Law

30 Sec. 8024.0003. CONFLICTS OF LAW. (a) This section applies
31 only to laws enacted on or before June 16, 2001.

32 (b) Chapter 49 or 54, Water Code, controls over a
33 conflicting or inconsistent provision in general law relating to
34 road utility districts. (Acts 77th Leg., R.S., Ch. 1386, Sec. 5
35 (part).)

36 Source Law

37 Sec. 5. . . . If any provision of general law
38 relating to road utility districts is in conflict or
39 inconsistent with . . . Chapter 49 or 54, Water Code,
40 . . . Chapters 49 and 54, Water Code, prevail. . . .

1 Revisor's Note

2 (1) Section 5, Chapter 1386, Acts of the 77th
3 Legislature, Regular Session, 2001, provides in part
4 that, in case of a conflict between a provision of
5 Chapter 49 or 54, Water Code, and the general law
6 relating to road utility districts, the Water Code
7 provision prevails. The revised law limits the
8 application of the Chapter 1386 conflicts provision to
9 general laws enacted on or before the date the
10 conflicts provision was enacted (June 16, 2001) to
11 ensure that no substantive change is made by reviving
12 the conflicts provision in the revised law. To restate
13 the Chapter 1386 conflicts provision in the revised
14 law without a date limitation would potentially change
15 the outcome of applying the normal rules of statutory
16 construction to general laws that were enacted or
17 amended between the date Chapter 1386 took effect and
18 the date of this revision. It is a fundamental
19 principle of statutory construction that one session
20 of the legislature may not bind a future session of the
21 legislature. The 77th Legislature could not prevent a
22 subsequent legislature from enacting a general law
23 that would override Chapter 1386. A general law,
24 including an amendment to an existing general law,
25 enacted after June 16, 2001, must be interpreted in
26 light of the legislative intent as to whether the
27 subsequent general law as enacted would prevail over
28 an earlier enacted general law.

29 (2) Section 5, Chapter 1386, Acts of the 77th
30 Legislature, Regular Session, 2001, provides in part
31 that, in case of conflicts between that act and certain
32 general laws, the act prevails. The revised law omits
33 the provision because it is both unnecessary and
34 potentially misleading. To the extent the provision

1 means the act prevails over other law in existence at
2 the time the act became effective and with which the
3 act conflicts, it merely restates general rules of
4 statutory construction. To the extent the provision
5 implies that the act prevails over future enactments
6 of the legislature that may conflict with the act, the
7 provision is misleading. It is a fundamental
8 principle of statutory construction that one session
9 of the legislature may not bind a future session of the
10 legislature. In addition, Section 311.026, Government
11 Code (Code Construction Act), governs the
12 interpretation of the revised law in instances of
13 apparent conflict with other laws. The omitted law
14 reads:

15 Sec. 5. . . . [If any provision of
16 general law relating to road utility
17 districts is in conflict or inconsistent
18 with] this Act or . . . this Act and . . .
19 [prevail]. This Act prevails over any
20 provision of general law that is in conflict
21 or inconsistent with this Act, including
22 any provision of Chapter 49 or 54, Water
23 Code.

24 SUBCHAPTER B. POWERS AND DUTIES

25 Revised Law

26 Sec. 8024.0051. ROAD UTILITY DISTRICT POWERS AND DUTIES.

27 (a) The district has road utility district authority under Section
28 52(b)(3), Article III, Texas Constitution, and Chapter 441,
29 Transportation Code, including:

30 (1) the authority to repair and maintain streets and
31 roadways in the district; and

32 (2) the ability to make contracts in the same manner as
33 a road utility district under Subchapter E, Chapter 441,
34 Transportation Code.

35 (b) The district has all of the rights, powers, privileges,
36 authority, duties, and functions conferred by the general laws
37 applicable to a road utility district created under Section 52,
38 Article III, Texas Constitution, to the extent those provisions can

1 be made applicable.

2 (c) The district is not subject to the requirements of
3 Subchapter B, Chapter 441, Transportation Code. (Acts 77th Leg.,
4 R.S., Ch. 1386, Secs. 1 (part), 4, 5 (part), 9.)

5 Source Law

6 Sec. 1. The Baybrook Municipal Utility District
7 No. 1 is granted road utility district authority under
8 Section 52(b)(3), Article III, Texas Constitution, and
9 Chapter 441, Transportation Code, including the
10 authority to repair and maintain streets and roadways
11 in the district. . . .

12 Sec. 4. The district is not subject to the
13 requirements of Subchapter B or C, Chapter 441,
14 Transportation Code.

15 Sec. 5. The district has all of the rights,
16 powers, privileges, authority, duties, and functions
17 conferred by the general law of this state, including
18 Chapter 441, Transportation Code, applicable to road
19 utility districts created under Section 52, Article
20 III, Texas Constitution, to the extent those
21 provisions can be made applicable. . . .

22 Sec. 9. The district may make contracts in the
23 same manner as a road utility district under
24 Subchapter E, Chapter 441, Transportation Code.

25 Revisor's Note

26 (1) Section 1, Chapter 1386, Acts of the 77th
27 Legislature, Regular Session, 2001, provides that the
28 district "is granted" road utility district authority.
29 The revised law substitutes "has" for the quoted
30 language because that phrase is more concise and is the
31 substantive equivalent of the quoted language.

32 (2) Section 4, Chapter 1386, Acts of the 77th
33 Legislature, Regular Session, 2001, refers to
34 Subchapter C, Chapter 441, Transportation Code. The
35 revised law omits the reference to Subchapter C
36 because that subchapter was repealed by Chapter 248,
37 Acts of the 78th Legislature, Regular Session, 2003.

38 Revised Law

39 Sec. 8024.0052. ROAD PROJECTS. (a) To the extent
40 authorized by Section 52, Article III, Texas Constitution, the
41 district may construct, acquire, improve, maintain, and operate
42 macadamized, graveled, or paved roads and turnpikes or improvements

1 in aid of those roads or turnpikes in the district.

2 (b) The improvements under Subsection (a) may include
3 drainage or landscaping improvements and lights, signs, or signals
4 that are incidental to the roads and turnpikes and the
5 construction, maintenance, or operation of the roads and turnpikes.

6 (c) A project authorized by this section must meet all
7 applicable construction standards, zoning and subdivision
8 requirements, and regulatory ordinances of the city.

9 (d) On completion of a project authorized by this chapter,
10 the district, with the consent of the city, may convey the project
11 to the city if the conveyance is free of all district debt. If the
12 city becomes the owner of a project, the city is responsible for all
13 future maintenance and the district has no further responsibility
14 for the project or its maintenance. (Acts 77th Leg., R.S., Ch.
15 1386, Sec. 6.)

16 Source Law

17 Sec. 6. (a) The district may construct,
18 acquire, improve, maintain, and operate macadamized,
19 graveled, or paved roads and turnpikes or improvements
20 in aid of those roads or turnpikes, within the
21 boundaries of the district, to the extent authorized
22 by Section 52, Article III, Texas Constitution.

23 (b) The works, facilities, or improvements may
24 include drainage or landscaping improvements and
25 lights, signs, or signals that are incidental to those
26 roads and turnpikes and their construction,
27 maintenance, or operation.

28 (c) A project authorized by this section must
29 meet all applicable construction standards, zoning and
30 subdivision requirements, and regulatory ordinances
31 of the city.

32 (d) On completion of any project authorized by
33 this Act, the district, with the consent of the city,
34 may convey that project to the city, provided the
35 conveyance is free of all indebtedness of the
36 district. If the city becomes the owner of a project,
37 the city is responsible for all future maintenance and
38 upkeep, and the district has no further responsibility
39 for the project or its maintenance or upkeep.

40 Revisor's Note

41 Section 6, Chapter 1386, Acts of the 77th
42 Legislature, Regular Session, 2001, refers to
43 "maintenance" and "upkeep." The revised law omits
44 "upkeep" because, in context, "upkeep" is included in
45 the meaning of "maintenance."

1 Revised Law

2 Sec. 8024.0053. RAPID TRANSIT AUTHORITY POWERS. (a) The
3 district has the powers of a metropolitan rapid transit authority
4 under Section 451.065, Transportation Code.

5 (b) The municipal consent and contract requirements in
6 Section 451.065(d), Transportation Code, do not apply to the
7 district. (Acts 77th Leg., R.S., Ch. 1386, Sec. 1 (part).)

8 Source Law

9 Sec. 1. . . . In addition, the district has the
10 powers of a metropolitan rapid transit authority under
11 Section 451.065, Transportation Code, but the district
12 is not subject to the municipal consent or municipal
13 contract requirements of Subsection (d) of that
14 section.

15 SUBCHAPTER C. FINANCIAL PROVISIONS

16 Revised Law

17 Sec. 8024.0101. ELECTIONS REGARDING TAXES OR BONDS. (a)
18 The district may issue bonds, notes, and other obligations secured
19 by revenues or contract payments from any lawful source other than
20 ad valorem taxes without an election.

21 (b) The district may issue bonds, notes, and other
22 obligations secured wholly or partly by ad valorem taxes only if the
23 issuance is approved by a vote of a two-thirds majority of the
24 district voters voting at an election held for that purpose. (Acts
25 77th Leg., R.S., Ch. 1386, Sec. 7.)

26 Source Law

27 Sec. 7. The district may issue bonds, notes, and
28 other obligations secured by revenues or contract
29 payments from any lawful source other than ad valorem
30 taxation without an election. The district may issue
31 bonds, notes, and other obligations secured in whole
32 or in part by ad valorem taxation only if the issuance
33 is approved by a two-thirds majority of the voters of
34 the district voting at an election called and held for
35 that purpose.

36 Revisor's Note

37 Section 7, Chapter 1386, Acts of the 77th
38 Legislature, Regular Session, 2001, provides that an
39 election to approve the issuance of bonds secured by ad
40 valorem taxes must be "called and held." The revised

1 law omits the reference to an election being "called"
2 because, in context, "calling" an election is included
3 in the meaning of "holding" an election. Under Chapter
4 3, Election Code, all elections must be ordered
5 (called) before they may be held.

6 Revised Law

7 Sec. 8024.0102. MAINTENANCE TAX. The district may impose a
8 maintenance tax at a rate not to exceed 25 cents on each \$100 of
9 assessed valuation of property in the district to be used for any
10 authorized purpose of the district if the authority to impose the
11 tax is approved by a majority of district voters voting at an
12 election held for that purpose. (Acts 77th Leg., R.S., Ch. 1386,
13 Sec. 8.)

14 Source Law

15 Sec. 8. The district may impose a maintenance
16 tax in an amount not to exceed 25 cents on each \$100 of
17 assessed valuation of property in the district to be
18 used for any authorized purpose of the district if the
19 authority to impose the tax is approved by a majority
20 of the voters of the district voting at an election on
21 that proposition.

22 Revisor's Note

23 Section 8, Chapter 1386, Acts of the 77th
24 Legislature, Regular Session, 2001, provides that the
25 authority to impose a maintenance tax must be approved
26 by a majority of voters voting at an election "on that
27 proposition." The revised law substitutes "held for
28 that purpose" for the quoted language because the
29 phrases are synonymous in context and "held for that
30 purpose" is more consistent with modern usage.

31 Revisor's Note
32 (End of Chapter)

33 Section 10, Chapter 1386, Acts of the 77th
34 Legislature, Regular Session, 2001, recites
35 legislative findings regarding procedural
36 requirements for legislation affecting the district
37 under the constitution and other laws and rules,

1 including proper legal notice and the filing of
 2 recommendations. The revised law omits those
 3 provisions as executed. The omitted law reads:

4 Sec. 10. (a) The proper and legal
 5 notice of the intention to introduce this
 6 Act, setting forth the general substance of
 7 this Act, has been published as provided by
 8 law, and the notice and a copy of this Act
 9 have been furnished to all persons,
 10 agencies, officials, or entities to which
 11 they are required to be furnished by the
 12 constitution and other laws of this state,
 13 including the governor, who has submitted
 14 the notice and a copy of the Act to the Texas
 15 Natural Resource Conservation Commission.

16 (b) The Texas Natural Resource
 17 Conservation Commission has filed its
 18 recommendations relating to this Act with
 19 the governor, lieutenant governor, and
 20 speaker of the house of representatives
 21 within the required time.

22 (c) All requirements of the
 23 constitution and laws of this state and the
 24 rules and procedures of the legislature
 25 with respect to the notice, introduction,
 26 and passage of this Act are fulfilled and
 27 accomplished.

28 SUBTITLE G. RIVER AUTHORITIES

29 CHAPTER 8508. SULPHUR RIVER BASIN AUTHORITY

30 SUBCHAPTER A. GENERAL PROVISIONS

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25	CHAPTER 8508. SULPHUR RIVER BASIN AUTHORITY		
26	SUBCHAPTER A. GENERAL PROVISIONS		
27	<u>Revised Law</u>		
28	Sec. 8508.0001.	DEFINITIONS. In this chapter:	
29	(1)	"Authority" means the Sulphur River Basin	
30		Authority.	
31	(2)	"Basin" means the watersheds of the Sulphur River	
32		inside the authority's territory as defined by Section 8508.0006.	
33	(3)	"Board" means the authority's board of directors.	
34	(4)	"Commission" means the Texas Commission on	

1 Environmental Quality.

2 (5) "Development board" means the Texas Water
3 Development Board.

4 (6) "Director" means a board member.

5 (7) "Public agency" means any government or
6 governmental subdivision or agency.

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

10 (9) "Waste" means sewage, industrial waste, municipal
11 waste, recreational waste, agricultural waste, or waste heat.
12 (Acts 69th Leg., 1st C.S., Ch. 3, Secs. 2(1), (2), (3), (4), (6),
13 (8), (9), (11); New.)

14 Source Law

15 Sec. 2. In this Act:

16 (1) "Authority" means the Sulphur River
17 Basin Authority.

18 (2) "Basin" means the watersheds of the
19 Sulphur River within the boundaries of the authority
20 as defined in Section 3 of this Act.

21 (3) "Board" means the board of directors
22 of the authority.

23 (4) "Commission" means the Texas Water
24 Commission.

25 (6) "Development board" means the Texas
26 Water Development Board.

27 (8) "Public agency" means any government
28 or governmental subdivision or agency.

29 (9) "State" means the State of Texas or any
30 of its agencies, departments, boards, political
31 subdivisions, or other entities.

32 (11) "Waste" means sewage, industrial
33 waste, municipal waste, recreational waste,
34 agricultural waste, or waste heat.

35 Revisor's Note

36 (1) Section 2(4), Chapter 3, Acts of the 69th
37 Legislature, 1st Called Session, 1985, defines
38 "commission" to mean the Texas Water Commission. The
39 name of the Texas Water Commission was changed to the
40 Texas Natural Resource Conservation Commission by
41 Section 1.085, Chapter 3, Acts of the 72nd
42 Legislature, 1st Called Session, 1991. The name of the

1 Texas Natural Resource Conservation Commission was
2 changed to the Texas Commission on Environmental
3 Quality by Section 18.01, Chapter 965, Acts of the 77th
4 Legislature, Regular Session, 2001. The revised law
5 is drafted accordingly.

6 (2) Section 2(7), Chapter 3, Acts of the 69th
7 Legislature, 1st Called Session, 1985, defines
8 "person." The revised law omits the definition
9 because it duplicates, in substance, the definition of
10 "person" provided by Section 311.005(2), Government
11 Code (Code Construction Act). The omitted law reads:

12 (7) "Person" means an
13 individual, corporation, organization,
14 public agency, business trust, estate,
15 trust, partnership, association, and any
16 other legal entity.

17 (3) Section 2(10), Chapter 3, Acts of the 69th
18 Legislature, 1st Called Session, 1985, defines "United
19 States." The revised law omits the definition because
20 it duplicates, in substance, the definition of "United
21 States" provided by Section 311.005(9), Government
22 Code (Code Construction Act). The omitted law reads:

23 (10) "United States" includes
24 any department, bureau, and other agency of
25 the United States.

26 (4) The definition of "director" is added to the
27 revised law for drafting convenience and to eliminate
28 frequent, unnecessary repetition of the substance of
29 the definition.

30 Revised Law

31 Sec. 8508.0002. NATURE OF AUTHORITY. The authority is a
32 conservation and reclamation district created under Section 59,
33 Article XVI, Texas Constitution. (Acts 69th Leg., 1st C.S., Ch. 3,
34 Sec. 1(a).)

35 Source Law

36 Sec. 1. (a) Pursuant to Article XVI, Section
37 59, of the Texas Constitution, a conservation and
38 reclamation district is created to be known as Sulphur

1 River Basin Authority.

2 Revisor's Note

3 Section 1(b), Chapter 3, Acts of the 69th
4 Legislature, 1st Called Session, 1985, provides that
5 the authority is a governmental agency and a body
6 politic and corporate. The revised law omits the
7 provision because it duplicates a portion of Section
8 59(b), Article XVI, Texas Constitution, which provides
9 that a conservation and reclamation district is a
10 governmental agency and a body politic and corporate.

11 The omitted law reads:

12 (b) The authority is a governmental
13 agency and a body politic and corporate.

14 Revised Law

15 Sec. 8508.0003. PURPOSE OF CHAPTER. The purpose of this
16 chapter is to authorize the authority to provide for the
17 conservation and development of this state's natural resources
18 inside the basin, including:

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

24 (2) the reclamation and irrigation of land needing
25 irrigation;

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

28 (4) the maintenance and enhancement of the quality of
29 the water;

30 (5) the conservation and development of the water;

31 (6) the navigation of inland water; and

32 (7) the provision of systems, facilities, and
33 procedures for the collection, transportation, handling,
34 treatment, and disposal of waste. (Acts 69th Leg., 1st C.S., Ch. 3,
35 Sec. 4.)

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Source Law

Sec. 4. The purpose of this Act is to authorize the authority to provide for the conservation and development of the state's natural resources within the basin of Sulphur River, including:

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

(2) the reclamation and irrigation of land needing irrigation;

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

(4) the maintenance and enhancement of the quality of the water;

(5) the conservation and development of the water;

(6) the navigation of inland water; and

(7) the provision of systems, facilities, and procedures for the collection, transportation, handling, treatment, and disposal of waste.

Revised Law

Sec. 8508.0004. FINDING OF BENEFIT. The legislature finds that all land included in the authority will benefit from the improvements to be acquired and constructed by the authority. (Acts 69th Leg., 1st C.S., Ch. 3, Sec. 3(b).)

Source Law

(b) The legislature finds that all of the land included in the authority will be benefited by the improvements to be acquired and constructed by the authority.

Revised Law

Sec. 8508.0005. 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, 2029, and every 12th year after that year. (Acts 69th Leg., 1st C.S., Ch. 3, Sec. 1A(a) (part).)

Source Law

Sec. 1A. (a) . . . The review shall be conducted under Section 325.025, Government Code, as if the authority were a state agency scheduled to be abolished September 1, 2029, and every 12th year after that year.

Revisor's Note

Sections 1A(a) and (c), Chapter 3, Acts of the 69th Legislature, 1st Called Session, 1985, relate to

1 a periodic review of the authority by the Sunset
2 Advisory Commission. Section 1A(a) provides in part
3 that the authority is subject to limited review under
4 Chapter 325, Government Code, as if it were a state
5 agency, but may not be abolished under that chapter.
6 Section 1A(c) provides that the authority must pay the
7 costs associated with the Sunset Advisory Commission's
8 review of the authority. The revised law omits those
9 provisions because they duplicate Sections
10 325.025(a), (b), and (d), Government Code, which
11 provide that certain river authorities, including the
12 Sulphur River Basin Authority, are subject to limited
13 review, but not abolishment, by the Sunset Advisory
14 Commission under Chapter 325, Government Code, and
15 that those river authorities shall pay the cost
16 incurred by the Sunset Advisory Commission in
17 performing the review. The omitted law reads:

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

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

30 Revised Law

31 Sec. 8508.0006. TERRITORY. (a) Unless modified under
32 Subchapter J, Chapter 49, Water Code, or other law, the authority's
33 territory is composed of the territory in each county in Texas,
34 other than Fannin County, that is located wholly or partly in the
35 watershed of the Sulphur River and its tributaries with confluences
36 with the Sulphur River upstream from the eastern boundary of Texas,
37 as those watersheds and tributaries are defined by maps on file with
38 the development board.

39 (b) The boundaries of the authority form a closure. A

1 mistake in the description of the boundaries in the legislative
2 process or another mistake does not affect:

3 (1) the authority's organization, existence, or
4 validity;

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

8 (3) the legality or operation of the authority or its
9 governing body. (Acts 69th Leg., 1st C.S., Ch. 3, Secs. 3(a), 52;
10 New.)

11 Source Law

12 Sec. 3. (a) The authority is composed of the
13 territory in each county in Texas, other than Fannin
14 County, that is located in whole or in part within the
15 watershed of the Sulphur River and its tributaries
16 with confluences with the Sulphur River upstream from
17 the eastern boundary of Texas, as those watersheds and
18 tributaries are defined by maps now on file with the
19 development board.

20 Sec. 52. The legislature finds and determines
21 that the boundaries of the Sulphur River Basin
22 Authority form a closure. If any mistake is made in
23 the description of the boundaries in the legislative
24 process, or a mistake is otherwise made, it in no way
25 affects the organization, existence, and validity of
26 the authority, or the right of the authority to issue
27 any types of bonds, including refunding bonds, for the
28 purpose for which the authority is created, or to pay
29 the principal of or interest on the obligations, or in
30 any other manner affects the legality or operation of
31 the authority or its governing body.

32 Revisor's Note

33 (1) The revision of the law governing the
34 authority revises the statutory language describing
35 the territory of the authority. Because the
36 authority's boundaries are subject to change, that
37 description may not be accurate on the effective date
38 of the revision or at the time of a later reading. For
39 the reader's convenience, the revised law adds
40 references to the statutory authority to change the
41 authority's territory under Subchapter J, Chapter 49,
42 Water Code, applicable to the authority under Sections
43 49.001 and 49.002 of that chapter, and to the general

1 authority of the legislature to enact a law to change
2 the authority's territory.

3 (2) Section 52, Chapter 3, Acts of the 69th
4 Legislature, 1st Called Session, 1985, provides that a
5 mistake in the description of the authority's
6 boundaries or another mistake does not affect the
7 right of the authority to issue "any types of bonds,
8 including refunding bonds," or to pay the principal of
9 or interest on "the obligations." The revised law
10 omits the reference to "refunding bonds" because
11 refunding bonds are included in the meaning of "any
12 types of bonds." The revised law substitutes "the
13 bond" for "the obligations" for consistency of
14 terminology.

15 Revised Law

16 Sec. 8508.0007. LIBERAL CONSTRUCTION OF CHAPTER. This
17 chapter shall be liberally construed to achieve its purposes.
18 (Acts 69th Leg., 1st C.S., Ch. 3, Sec. 5 (part).)

19 Source Law

20 Sec. 5. This Act shall be liberally construed to
21 achieve its purposes, and

22 Revisor's Note

23 (1) Section 5, Chapter 3, Acts of the 69th
24 Legislature, 1st Called Session, 1985, provides that
25 any grant of power included in that chapter shall be
26 held to specify but not to limit general powers. The
27 revised law omits the provision because it is an
28 accepted general principle of statutory construction
29 that a grant of a power does not act as a limitation.
30 The omitted law reads:

31 Sec. 5. . . . any particular grant
32 of power included in this Act shall be held
33 to specify but not to limit general
34 powers. . . .

35 (2) Section 5, Chapter 3, Acts of the 69th
36 Legislature, 1st Called Session, 1985, provides in

1 part that the act is sufficient authority for the
2 performance of all acts and procedures authorized by
3 the act, without reference to any other law or any
4 restrictions or limitations included in any other law.

5 The revised law omits the statement that the act
6 is sufficient authority for the performance of all
7 acts and procedures authorized by the act because it is
8 unnecessary. The operative provisions of the act are
9 fully effective on their own terms.

10 The revised law omits the statement that other
11 laws or restrictions or limitations included in those
12 laws do not apply because it is both unnecessary and
13 potentially misleading. An accepted general principle
14 of statutory construction requires a statute to be
15 given cumulative effect with other statutes unless it
16 provides otherwise or unless the statutes are in
17 conflict. To the extent the statement means the act
18 prevails over other law in existence at the time the
19 act became effective and with which the act conflicts,
20 the statement merely restates general rules of
21 statutory construction. To the extent the statement
22 means the act prevails over future enactments of the
23 legislature that may conflict with it, it is
24 misleading. It is a fundamental principle of
25 statutory construction that one session of the
26 legislature may not bind a future session of the
27 legislature. In addition, Section 311.026, Government
28 Code (Code Construction Act), governs the
29 interpretation of the revised law in instances of
30 apparent conflict with other laws.

31 Finally, codification of the statement is
32 potentially misleading because the revised law not
33 only omits provisions of the act that are impliedly
34 repealed by other law, it also omits provisions that

1 are duplicative of other law. Codification of the
2 statement might create an impression that the
3 provisions of other law that duplicate the omitted
4 provisions do not apply. The omitted law reads:

5 Sec. 5. . . . This Act is sufficient
6 authority for the performance of all acts
7 and procedures authorized by this Act,
8 without reference to any other law or any
9 restrictions or limitations included in any
10 other law.

11 SUBCHAPTER B. BOARD OF DIRECTORS; ADMINISTRATIVE PROVISIONS

12 Revised Law

13 Sec. 8508.0051. MEMBERSHIP OF BOARD. (a) The board
14 consists of seven directors appointed by the governor with the
15 advice and consent of the senate.

16 (b) The governor shall appoint one director to represent the
17 authority at large.

18 (c) The governor shall appoint two directors from each of
19 the following regions:

20 (1) Region 1: Bowie and Red River Counties;

21 (2) Region 2: Cass, Franklin, Hunt, Morris, and Titus
22 Counties; and

23 (3) Region 3: Delta, Hopkins, and Lamar Counties.

24 (d) Each director must be a qualified voter.

25 (e) A director appointed under Subsection (c) must be a
26 resident of a county in the region for which the director is
27 appointed. (Acts 69th Leg., 1st C.S., Ch. 3, Secs. 6(a) (part),
28 (b).)

29 Source Law

30 Sec. 6. (a) [The authority shall be governed
31 by a] board of directors composed of seven members. The
32 members of the board shall be appointed by the governor
33 with the advice and consent of the senate. One member
34 of the board shall be appointed to represent the
35 authority at large. Two members of the board shall be
36 appointed from each of the following regions:

37 (1) Region 1: Bowie and Red River
38 counties;

39 (2) Region 2: Cass, Franklin, Hunt,
40 Morris, and Titus counties; and

41 (3) Region 3: Delta, Hopkins, and Lamar
42 counties.

43 (b) Each member of the board must be a qualified

1 elector. A member of the board appointed to represent a
2 region under Subsection (a) must be a resident of a
3 county in the region for which the member is appointed.

4 Revisor's Note

5 Section 6(b), Chapter 3, Acts of the 69th
6 Legislature, 1st Called Session, 1985, refers to an
7 "elector" of a county in the region for which a
8 director is appointed. The revised law substitutes
9 "voter" for "elector" because the terms are synonymous
10 and "voter" is the term used in the Election Code.

11 Revised Law

12 Sec. 8508.0052. TERMS. Directors serve for staggered terms
13 of six years with two or three directors' terms expiring on February
14 1 of each odd-numbered year. (Acts 69th Leg., 1st C.S., Ch. 3, Sec.
15 6(c); Acts 85th Leg., R.S., Ch. 276, Sec. 15(c).)

16 Source Law

17 [Acts 69th Leg., 1st C.S., Ch. 3]

18 (c) Each member of the board shall serve for a
19 term of six years and until the member's successor has
20 qualified.

21 [Acts 85th Leg., R.S., Ch. 276]

22 (c) Notwithstanding Section 6(c), Chapter 3,
23 Acts of the 69th Legislature, 1st Called Session,
24 1985, as amended by this Act, of the seven initial
25 members appointed by the governor under that section,
26 the governor shall designate two members to serve for
27 terms that expire on February 1, 2019, two members to
28 serve for terms that expire on February 1, 2021, and
29 three members to serve for terms that expire on
30 February 1, 2023.

31 Revisor's Note

32 (1) Section 6(c), Chapter 3, Acts of the 69th
33 Legislature, 1st Called Session, 1985, provides that
34 each director shall serve "until the member's
35 successor has qualified." The revised law omits the
36 quoted language because it duplicates in substance
37 Section 17, Article XVI, Texas Constitution, which
38 requires an officer to continue to perform the
39 officer's duties until a successor has qualified.

40 (2) Sections 15(a), (b), and (d), Chapter 276,
41 Acts of the 85th Legislature, Regular Session, 2017,

1 contain transition provisions regarding the terms of
2 directors in office on the effective date of the act
3 (September 1, 2017) and the appointment of successor
4 directors. The revised law omits the provisions as
5 executed because the terms of office of the directors
6 serving on the effective date of the act have expired
7 and successor directors have been appointed. The
8 omitted law reads:

9 Sec. 15. (a) The terms of the
10 members of the board of directors of the
11 Sulphur River Basin Authority serving on
12 the effective date of this Act expire on
13 September 1, 2017.

14 (b) Not later than September 2, 2017,
15 the governor shall make the appointments
16 required by Section 6, Chapter 3, Acts of
17 the 69th Legislature, 1st Called Session,
18 1985, as amended by this Act.

19 (d) The governor may appoint to the
20 board of directors under Subsection (b) of
21 this section a member whose term expires
22 under Subsection (a) of this section.

23 (3) Section 15(c), Chapter 276, Acts of the 85th
24 Legislature, Regular Session, 2017, prescribes the
25 procedure for staggering the terms of the directors
26 first appointed under that act. The revised law
27 revises the provision specifying that directors serve
28 staggered terms with two or three director's terms
29 expiring on February 1 of each odd-numbered year but
30 omits as executed the provision relating to the year
31 the initial terms expire.

32 Revised Law

33 Sec. 8508.0053. REMOVAL. (a) The governor may remove a
34 director from office for:

- 35 (1) inefficiency;
36 (2) neglect of duty;
37 (3) misconduct in office; or
38 (4) absence from three consecutive regular board
39 meetings.

40 (b) Before a director is removed from office, the board

1 shall call and hold a hearing on the charges against the director,
2 and the director is entitled to appear at the hearing and present
3 evidence to show why the director should not be removed from office.

4 (c) Not later than the 30th day before the date of the
5 hearing, the board shall give the accused director notice of:

6 (1) the charges against the director; and

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

8 (d) An affirmative vote of not fewer than four of the
9 directors is required to approve a recommendation for removal.

10 (e) A recommendation for removal shall be forwarded to the
11 governor for the governor's consideration and action as provided by
12 this section. (Acts 69th Leg., 1st C.S., Ch. 3, Sec. 6(f).)

13 Source Law

14 (f) The governor may remove a director from
15 office for inefficiency, neglect of duty, misconduct
16 in office, or absence from three consecutive regular
17 meetings of the board. Before a director is removed
18 from office, the board shall call and hold a hearing on
19 the charges against him, and the director who is the
20 subject of the proposed removal is entitled to appear
21 at the hearing and present evidence to show why he
22 should not be removed from office. Not later than the
23 30th day before the date of the hearing, the board
24 shall give the accused director notice of the charges
25 against him and the time and place for the hearing. An
26 affirmative vote of not less than four of the directors
27 is required to approve a recommendation for removal. A
28 recommendation for removal shall be forwarded to the
29 governor for his consideration and action as provided
30 by this subsection.

31 Revised Law

32 Sec. 8508.0054. VACANCY. A vacancy on the board shall be
33 filled in the manner provided by Section 8508.0051 for making the
34 original appointment. (Acts 69th Leg., 1st C.S., Ch. 3, Sec. 6(e).)

35 Source Law

36 (e) All vacancies on the board shall be filled
37 in the manner provided by this section for making the
38 original appointment.

39 Revisor's Note

40 Section 6(e), Chapter 3, Acts of the 69th
41 Legislature, 1st Called Session, 1985, provides that
42 vacancies on the board shall be filled in the manner
43 provided by "this section" for making the original

1 appointment. The relevant provisions of Section 6,
2 Chapter 3, Acts of the 69th Legislature, 1st Called
3 Session, 1985, are revised as Section 8508.0051 of
4 this chapter. For the reader's convenience, the
5 revised law substitutes a reference to Section
6 8508.0051 for the quoted language.

7 Revised Law

8 Sec. 8508.0055. BOND REQUIREMENT FOR DIRECTORS. As a
9 qualification for office, a director must execute a bond in an
10 amount determined by the board conditioned on the faithful
11 performance of the director's duties. (Acts 69th Leg., 1st C.S.,
12 Ch. 3, Sec. 6(d).)

13 Source Law

14 (d) Each member of the board shall qualify by
15 taking the constitutional oath of office and by
16 executing a bond in an amount determined by the board
17 conditioned on the faithful performance of his duties.

18 Revisor's Note

19 Section 6(d), Chapter 3, Acts of the 69th
20 Legislature, 1st Called Session, 1985, requires each
21 director to take the constitutional oath of office.
22 The revised law omits that provision because Section
23 1, Article XVI, Texas Constitution, requires all
24 officers to take the oath (or affirmation) before
25 assuming office.

26 Revised Law

27 Sec. 8508.0056. COMPENSATION OF DIRECTORS. (a) A director
28 is entitled to receive \$25 a day and reimbursement for actual and
29 necessary expenses incurred:

30 (1) for each day the director spends attending
31 meetings of the board; and

32 (2) for each day the director spends attending to the
33 business of the authority that is authorized by the board.

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

1 (c) In all areas of conflict with Subsection (a) or (b) of
2 this section, Section 49.060, Water Code, takes precedence.

3 (d) A director's compensation may be increased as
4 authorized by Section 49.060, Water Code, by resolution adopted by
5 the board in accordance with Subsection (e) of that section on or
6 after September 1, 1995. (Acts 69th Leg., 1st C.S., Ch. 3, Sec. 8;
7 New.)

8 Source Law

9 Sec. 8. (a) A director is entitled to receive
10 \$25 a day and reimbursement for actual and necessary
11 expenses incurred:

12 (1) for each day he spends attending
13 meetings of the board; and

14 (2) for each day he spends attending to the
15 business of the authority that is authorized by the
16 board.

17 (b) A director is not entitled to receive a per
18 diem allowance for more than 50 days in any single
19 calendar year.

20 (c) A director's compensation may be increased
21 as authorized by Section 49.060, Water Code, by
22 resolution adopted by the board in accordance with
23 Subsection (e) of that section on or after September 1,
24 1995.

25 Revisor's Note

26 Sections 8(a), (b), and (c), Chapter 3, Acts of
27 the 69th Legislature, 1st Called Session, 1985, relate
28 to the compensation of directors. Section 8(a)
29 provides that a director is entitled to receive a per
30 diem of \$25 for each day the director spends attending
31 to authority business. Section 8(b) limits the number
32 of days a director may receive a per diem in a calendar
33 year to 50 days. Section 8(c), added in 2017 by
34 Chapter 276, Acts of the 85th Legislature, Regular
35 Session, provides that a director's compensation may
36 be increased in the manner prescribed by Section
37 49.060, Water Code. Section 49.060, Water Code, which
38 was enacted in 1995 and applies to the authority on its
39 own terms, also provides for a director's fees of
40 office, computed on a rate per day of a certain service
41 and, under Subsection (a-1) of that section, requires

1 the board to adopt a resolution limiting a director's
2 total annual fees of office. Section 49.060(e)
3 provides that, in all areas of conflict, Section
4 49.060 takes precedence over all prior statutory
5 enactments and that, if the enactment of that section
6 would result in a fee increase, the increase does not
7 apply to a district unless the board by resolution
8 authorizes payment of the higher fees. Because it is
9 unclear whether the authority has taken action
10 relating to fees paid to directors and whether, after
11 their revision as provisions of this chapter, Sections
12 8(a), (b), and (c) of Chapter 3 conflict with Section
13 49.060 and would continue to be considered "prior
14 statutory enactments" for purposes of Section
15 49.060(e), the revised law includes the substance of
16 Sections 8(a), (b), and (c) and adds a provision to
17 preserve the effect of Section 49.060 to the extent of
18 a conflict with that language.

19 Revised Law

20 Sec. 8508.0057. OFFICERS. (a) The governor shall
21 designate a director as the presiding officer of the board to serve
22 in that capacity at the pleasure of the governor.

23 (b) The board shall elect one or more vice presidents, a
24 secretary, a treasurer, and other officers as the directors
25 consider necessary.

26 (c) The presiding officer and each vice president must be a
27 director, but other officers are not required to be directors.

28 (d) The offices of the secretary and treasurer may be
29 combined, and the offices of assistant secretary and assistant
30 treasurer may be combined. (Acts 69th Leg., 1st C.S., Ch. 3, Secs.
31 6(i), (j).)

32 Source Law

33 (i) The governor shall designate a member of the
34 board as the presiding officer of the board to serve in
35 that capacity at the pleasure of the governor.

1 (j) The board shall elect one or more
2 vice-presidents, a secretary, a treasurer, and other
3 officers as the members of the board consider
4 necessary. The presiding officer and vice-president
5 must be members of the board, but other officers are
6 not required to be members of the board. The offices of
7 the secretary and treasurer may be combined, and the
8 offices of assistant secretary and assistant treasurer
9 may be combined.

10 Revised Law

11 Sec. 8508.0058. DIRECTOR TRAINING PROGRAM. (a) A person
12 who is appointed to and qualifies for office as a director may not
13 vote, deliberate, or be counted as a director in attendance at a
14 board meeting until the person completes a training program that
15 complies with this section.

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

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

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

21 (3) the scope of and limitations on the authority's
22 rulemaking authority;

23 (4) the results of the authority's most recent formal
24 audit;

25 (5) the requirements of:

26 (A) laws relating to open meetings, public
27 information, administrative procedure, and disclosing conflicts of
28 interest; and

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

31 (6) any applicable ethics policies adopted by the
32 board or the Texas Ethics Commission.

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

37 (d) The board shall create a training manual that includes
38 the information required by Subsection (b). The board shall

1 distribute a copy of the training manual annually to each director.
2 On receipt of the training manual, each director shall sign a
3 statement acknowledging receipt of the training manual. (Acts 69th
4 Leg., 1st C.S., Ch. 3, Sec. 6A.)

5 Source Law

6 Sec. 6A. (a) A person who is appointed to and
7 qualifies for office as a member of the board may not
8 vote, deliberate, or be counted as a member in
9 attendance at a meeting of the board until the person
10 completes a training program that complies with this
11 section.

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

14 (1) the law governing authority
15 operations;

16 (2) the programs, functions, rules, and
17 budget of the authority;

18 (3) the scope of and limitations on the
19 rulemaking authority of the authority;

20 (4) the results of the most recent formal
21 audit of the authority;

22 (5) the requirements of:

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

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

29 (6) any applicable ethics policies adopted
30 by the board or the Texas Ethics Commission.

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

36 (d) The board shall create a training manual
37 that includes the information required by Subsection
38 (b). The board shall distribute a copy of the training
39 manual annually to each member of the board. On receipt
40 of the training manual, each member of the board shall
41 sign a statement acknowledging receipt of the training
42 manual.

43 Revised Law

44 Sec. 8508.0059. INTEREST IN CONTRACT. (a) A director who
45 has a financial interest in an authority contract for the purchase,
46 sale, lease, rental, or supply of property, including supplies,
47 materials, and equipment, or for the construction of facilities,
48 shall disclose that fact to the other directors and may not vote on
49 or participate in discussions during board meetings on the
50 acceptance of the contract.

51 (b) A director's financial interest does not affect the
52 validity of a contract if disclosure is made and the director with

1 the financial interest does not vote on the question of entering
2 into the contract. (Acts 69th Leg., 1st C.S., Ch. 3, Sec. 7.)

3 Source Law

4 Sec. 7. A director who has a financial interest
5 in a contract of the authority for the purchase, sale,
6 lease, rental, or supply of property, including
7 supplies, materials, and equipment, or the
8 construction of facilities shall disclose that fact to
9 the other members of the board and may not vote on or
10 participate in discussions during board meetings on
11 the acceptance of the contract. A financial interest
12 of a director does not affect the validity of a
13 contract if disclosure is made and the director with
14 the financial interest does not vote on the question of
15 entering into the contract.

16 Revised Law

17 Sec. 8508.0060. COMMITTEES. (a) The board may appoint or
18 establish committees from the board's directors as necessary or
19 desirable to assist in conducting the authority's business.

20 (b) Subject to the applicable rules of law on delegation of
21 powers, the board may assign or delegate or provide for the
22 assignment or delegation of any powers, duties, and functions to
23 its committees as the board may provide by rule or resolution.
24 (Acts 69th Leg., 1st C.S., Ch. 3, Sec. 9.)

25 Source Law

26 Sec. 9. The board may appoint or establish
27 committees from the membership of the board as
28 necessary or desirable to assist in conducting the
29 business of the authority. Subject to the applicable
30 rules of law on delegation of powers, the board may
31 assign or delegate or provide for the assignment or
32 delegation of any powers, duties, and functions to its
33 committees as the board may provide by rule or
34 resolution.

35 Revised Law

36 Sec. 8508.0061. EXECUTIVE DIRECTOR. (a) The board may
37 employ an executive director and set the executive director's
38 salary and other compensation by majority vote of the qualified
39 directors.

40 (b) The executive director is the chief executive officer of
41 the authority.

42 (c) Under policies established by the board, the executive
43 director is responsible to the board for:

- 1 (1) administering the board's directives;
- 2 (2) keeping the authority's records, including minutes
3 of the meetings of the board and the executive committee;
- 4 (3) coordinating with state, federal, and local
5 agencies;
- 6 (4) developing plans and programs for the approval of
7 the board or the executive committee;
- 8 (5) hiring, supervising, training, and discharging
9 the authority's employees, as authorized by the board or the
10 executive committee;
- 11 (6) contracting for or retaining technical,
12 scientific, legal, fiscal, and other professional services, as
13 authorized by the board; and
- 14 (7) performing any other duties assigned by the board.

15 (d) The board may discharge the executive director on a
16 majority vote of the qualified directors. (Acts 69th Leg., 1st
17 C.S., Ch. 3, Sec. 10.)

18 Source Law

19 Sec. 10. (a) The board may employ an executive
20 director and set his salary and other compensation by
21 majority vote of the qualified directors.

22 (b) The executive director is the chief
23 executive officer of the authority.

24 (c) Under policies established by the board, the
25 executive director is responsible to the board for:

26 (1) administering the directives of the
27 board;

28 (2) keeping the authority's records,
29 including minutes of the meetings of the board and the
30 executive committee;

31 (3) coordinating with state, federal, and
32 local agencies;

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

35 (5) hiring, supervising, training, and
36 discharging the authority's employees, as authorized
37 by the board or the executive committee;

38 (6) contracting for or retaining
39 technical, scientific, legal, fiscal, and other
40 professional services, as authorized by the board; and

41 (7) performing any other duties assigned
42 by the board.

43 (d) The board may discharge the executive
44 director on a majority vote of the qualified
45 directors.

46 Revised Law

47 Sec. 8508.0062. SEPARATION OF POLICYMAKING AND MANAGEMENT

1 FUNCTIONS. The board shall develop and implement policies that
2 clearly separate the policymaking responsibilities of the board and
3 the management responsibilities of the executive director and staff
4 of the authority. (Acts 69th Leg., 1st C.S., Ch. 3, Sec. 10A.)

5 Source Law

6 Sec. 10A. The board shall develop and implement
7 policies that clearly separate the policymaking
8 responsibilities of the board and the management
9 responsibilities of the executive director and staff
10 of the authority.

11 Revised Law

12 Sec. 8508.0063. DIRECTORS' AND EMPLOYEES' FIDELITY BONDS.

13 (a) The executive director, the treasurer, and any other officer,
14 agent, or employee of the authority who has responsibilities that
15 involve the collection, custody, or payment of authority money
16 shall execute a fidelity bond.

17 (b) The board must approve the form, amount, and surety of
18 the bond.

19 (c) The authority shall pay the premiums on the bonds
20 required under this chapter. (Acts 69th Leg., 1st C.S., Ch. 3, Sec.
21 11.)

22 Source Law

23 Sec. 11. (a) The executive director, the
24 treasurer, and other officers, agents, and employees
25 of the authority who have responsibilities that
26 involve the collection, custody, or payment of any
27 money of the authority shall execute a fidelity bond.
28 The board shall approve the form, amount, and surety of
29 the bond.

30 (b) The authority shall pay the premiums on the
31 bonds required under this Act.

32 Revised Law

33 Sec. 8508.0064. AUTHORITY'S OFFICE. The authority shall
34 maintain its principal office inside its boundaries. (Acts 69th
35 Leg., 1st C.S., Ch. 3, Sec. 12.)

36 Source Law

37 Sec. 12. The authority shall maintain its
38 principal office inside its boundaries.

39 Revised Law

40 Sec. 8508.0065. NEGOTIATED RULEMAKING AND ALTERNATIVE

1 DISPUTE RESOLUTION. (a) The board shall develop a policy to
2 encourage the use of:

3 (1) negotiated rulemaking procedures under Chapter
4 2008, Government Code, for the adoption of authority rules; and

5 (2) appropriate alternative dispute resolution
6 procedures under Chapter 2009, Government Code, to assist in the
7 resolution of internal and external disputes under the authority's
8 jurisdiction.

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

14 (c) The authority shall:

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

17 (2) provide training as needed to implement the
18 procedures for negotiated rulemaking or alternative dispute
19 resolution; and

20 (3) collect data concerning the effectiveness of those
21 procedures. (Acts 69th Leg., 1st C.S., Ch. 3, Sec. 6B.)

22 Source Law

23 Sec. 6B. (a) The board shall develop a policy
24 to encourage the use of:

25 (1) negotiated rulemaking procedures
26 under Chapter 2008, Government Code, for the adoption
27 of authority rules; and

28 (2) appropriate alternative dispute
29 resolution procedures under Chapter 2009, Government
30 Code, to assist in the resolution of internal and
31 external disputes under the authority's jurisdiction.

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

37 (c) The authority shall:

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

40 (2) provide training as needed to
41 implement the procedures for negotiated rulemaking or
42 alternative dispute resolution; and

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

1 Revised Law

2 Sec. 8508.0066. COMPLAINTS. (a) The authority shall
3 maintain a system to promptly and efficiently act on complaints
4 filed with the authority. The authority shall maintain information
5 about parties to the complaint, the subject matter of the
6 complaint, a summary of the results of the review or investigation
7 of the complaint, and its disposition.

8 (b) The authority shall make information available
9 describing its procedures for complaint investigation and
10 resolution.

11 (c) The authority shall periodically notify the parties to
12 the complaint of the status of the complaint until final
13 disposition. (Acts 69th Leg., 1st C.S., Ch. 3, Sec. 13A.)

14 Source Law

15 Sec. 13A. (a) The authority shall maintain a
16 system to promptly and efficiently act on complaints
17 filed with the authority. The authority shall
18 maintain information about parties to the complaint,
19 the subject matter of the complaint, a summary of the
20 results of the review or investigation of the
21 complaint, and its disposition.

22 (b) The authority shall make information
23 available describing its procedures for complaint
24 investigation and resolution.

25 (c) The authority shall periodically notify the
26 complaint parties of the status of the complaint until
27 final disposition.

28 Revisor's Note
29 (End of Subchapter)

30 (1) Section 6(a), Chapter 3, Acts of the 69th
31 Legislature, 1st Called Session, 1985, provides that
32 the authority is governed by a board of directors. The
33 revised law omits that provision because it
34 duplicates, in substance, parts of Sections 49.051 and
35 49.057, Water Code. Throughout this chapter, the
36 revised law omits law that is superseded by Chapter 49,
37 Water Code, or that duplicates law contained in that
38 chapter. Except as otherwise provided by that
39 chapter, Chapter 49, Water Code, applies to the
40 authority under Sections 49.001 and 49.002, Water

1 Code. The omitted law reads:

2 Sec. 6. (a) The authority shall be
3 governed by a [board of directors]

4 (2) Section 6(g), Chapter 3, Acts of the 69th
5 Legislature, 1st Called Session, 1985, provides that a
6 majority of the members of the board constitutes a
7 quorum for the transaction of business. The revised
8 law omits that provision because it duplicates Section
9 311.013, Government Code (Code Construction Act),
10 which provides that a quorum of a public body is a
11 majority of the number of members fixed by statute.
12 The revised law also omits "for the transaction of
13 business" because "quorum" means the number of persons
14 or votes necessary for a body to act. The omitted law
15 reads:

16 (g) A majority of the members of the
17 board constitutes a quorum for the
18 transaction of business.

19 (3) Section 13(b), Chapter 3, Acts of the 69th
20 Legislature, 1st Called Session, 1985, requires the
21 board to keep complete and accurate minutes of its
22 meetings. The revised law omits that provision
23 because it duplicates, in substance, part of Section
24 49.065, Water Code. The omitted law reads:

25 (b) The authority shall keep complete
26 and accurate minutes of its meetings.

27 SUBCHAPTER C. POWERS AND DUTIES

28 Revised Law

29 Sec. 8508.0101. GENERAL POWERS AND DUTIES. (a) The
30 authority shall:

31 (1) administer this chapter; and

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

34 (b) The authority may:

35 (1) exercise the powers, rights, and privileges
36 necessary or convenient for accomplishing the purposes of this

1 chapter; and

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

5 (c) The board may provide for any expenditures it considers
6 essential or useful in the maintenance, operation, and
7 administration of the authority. (Acts 69th Leg., 1st C.S., Ch. 3,
8 Secs. 16(a), (b), 38.)

9 Source Law

10 Sec. 16. (a) The authority shall administer
11 this Act and shall use its facilities and powers to
12 accomplish the purposes of this Act.

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

16 Sec. 38. (a) The board may provide for any
17 expenditures it considers essential or useful in the
18 maintenance, operation, and administration of the
19 authority.

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

24 Revised Law

25 Sec. 8508.0102. EFFECT OF POWERS OF AUTHORITY ON POWERS OF
26 OTHER DISTRICTS; COORDINATION AND JOINT UNDERTAKINGS AMONG
27 DISTRICTS. (a) The powers granted to the authority by this chapter
28 are not intended to restrict the powers of any conservation and
29 reclamation district created under Section 59, Article XVI, Texas
30 Constitution, inside the basin or area of the authority. It is the
31 legislature's intent that the authority and those districts
32 exercise their respective powers in a cooperative manner.

33 (b) A district created under Section 59, Article XVI, or
34 Sections 52(b)(1) and (2), Article III, Texas Constitution, on or
35 before August 29, 1985, may:

36 (1) coordinate its plans with the authority; and

37 (2) enter into joint undertakings with the authority
38 for the purposes for which the entities are created.

39 (c) The acts taken under Subsection (b) must be approved by
40 a majority of the boards of directors of the district and authority.

1 (Acts 69th Leg., 1st C.S., Ch. 3, Secs. 16(c) (part), (d).)

2 Source Law

3 (c) . . . However, the powers granted to the
4 authority by this Act are not intended to restrict the
5 powers of any conservation and reclamation district
6 previously created within the basin or area of the
7 authority under Article XVI, Section 59, of the Texas
8 Constitution. It is the legislature's intent that the
9 authority and those districts exercise their
10 respective powers in a cooperative manner.

11 (d) A district previously created under Article
12 XVI, Section 59, or Article III, Sections 52(b)(1) and
13 (2), of the Texas Constitution may coordinate its
14 plans with the authority and may enter into joint
15 undertakings for the purposes for which the districts
16 are created. However, those acts must be approved by a
17 majority of the board of directors of the district and
18 authority.

19 Revisor's Note

20 (1) Section 16(c), Chapter 3, Acts of the 69th
21 Legislature, 1st Called Session, 1985, provides that
22 the powers granted to the authority by that chapter are
23 cumulative of powers granted by other law. The revised
24 law omits the provision because an accepted general
25 principle of statutory construction requires that a
26 statute be given cumulative effect with other statutes
27 unless the other statute provides otherwise or unless
28 the statute conflicts with another statute. The
29 omitted law reads:

30 (c) The powers granted to the
31 authority by this Act are cumulative of all
32 powers granted by other laws that are
33 applicable to the authority. . . .

34 (2) Section 16(d), Chapter 3, Acts of the 69th
35 Legislature, 1st Called Session, 1985, refers to a
36 district "previously" created under certain
37 provisions of the Texas Constitution. The revised law
38 substitutes the effective date of the legislation
39 enacting Section 16(d) for the quoted term to clarify
40 for the reader the period referred to in the section.

41 Revised Law

42 Sec. 8508.0103. GENERAL POWERS RELATING TO WORKS AND WATER.

43 (a) The authority may exercise all the rights and powers of an

1 independent agency and a body politic and corporate to construct,
2 maintain, and operate, inside this state and in the watershed of the
3 Sulphur River and its tributaries inside or outside the boundaries
4 of the authority, any work considered essential:

- 5 (1) to the authority's operation; and
- 6 (2) for its administration in controlling, storing,
7 preserving, and distributing the water, including storm water and
8 floodwater, of the Sulphur River and its tributary streams.

9 (b) The authority may exercise the power of control and
10 regulation over the water of the Sulphur River and its tributaries
11 as this state may exercise, subject to the constitution and laws of
12 this state. (Acts 69th Leg., 1st C.S., Ch. 3, Sec. 1(d).)

13 Source Law

14 (d) The authority may exercise all the rights
15 and powers of an independent agency, body politic and
16 corporate, to construct, maintain, and operate inside
17 the state and in the watershed of the Sulphur River and
18 its tributaries inside or outside the boundaries of
19 the authority any works considered essential to the
20 operation of the authority and for its administration
21 in controlling, storing, preserving, and distributing
22 the water of the Sulphur River and its tributary
23 streams, including the storm water and floodwater.
24 The authority may exercise the power of control and
25 regulation over the water of the Sulphur River and its
26 tributaries as may be exercised by the state, subject
27 to the constitution and the laws of this state.

28 Revised Law

29 Sec. 8508.0104. CONTROL AND USE OF WATERS. (a) The
30 authority may exercise power over the storm water and floodwater of
31 the basin.

32 (b) The authority may exercise the powers of control and use
33 of the state's water in the following manner and for the following
34 purposes:

35 (1) to provide for the control and coordination of
36 water use in the basin as a unit;

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

40 (3) to provide for conserving storm water, floodwater,

1 and the unappropriated flow of the basin, including the storage,
2 control, transportation, treatment, and distribution of that
3 water, and the prevention of the escape of water without the maximum
4 of public service;

5 (4) to provide for the prevention of the devastation
6 of land from recurrent overflows;

7 (5) to provide for the protection of life and property
8 in the basin from uncontrolled floodwater;

9 (6) to provide for the conservation of water essential
10 for domestic and other water uses of the people of the basin,
11 including necessary water supplies for municipalities and
12 industrial districts;

13 (7) to provide for the irrigation of land in the basin
14 where irrigation is required for agricultural purposes or is
15 considered helpful to more profitable agricultural production;

16 (8) to provide for the equitable distribution of storm
17 water, floodwater, and unappropriated flow water to meet the
18 regional potential requirements for all uses;

19 (9) to provide for the encouragement and development
20 of drainage systems and provisions for the drainage of land in the
21 valleys of the basin needing drainage for profitable agricultural
22 and livestock production and industrial activities, and other
23 drainage of land for the most advantageous use;

24 (10) to provide for the conservation of soil against
25 destructive erosion to prevent the increased flood menace incident
26 to erosion;

27 (11) to control and make available for use storm
28 water, floodwater, and unappropriated flow water as authorized by
29 the commission in the development of commercial and industrial
30 enterprises in all sections of the watershed area of the authority;

31 (12) to provide for each purpose and use for which
32 storm water, floodwater, and unappropriated flow water when
33 controlled and conserved may be used in the performance of a useful
34 service as contemplated and authorized by the provisions of the

1 constitution and laws of this state;

2 (13) to control, store, and preserve the water of the
3 basin inside the authority for any useful purpose;

4 (14) to use, distribute, and sell water for any
5 beneficial purpose inside and outside the authority; and

6 (15) to acquire water and water rights inside and
7 outside the authority.

8 (c) The plans and works provided by the authority or under
9 the power of the authority should give primary consideration to the
10 necessary and potential needs for water by or in the various areas
11 in the watershed of the basin. (Acts 69th Leg., 1st C.S., Ch. 3,
12 Secs. 17(a), (b), (c).)

13 Source Law

14 Sec. 17. (a) Subject to the constitution and
15 other laws of this state and the continuing right of
16 supervision of the state through the commission, the
17 authority may exercise authority over the storm water
18 and floodwater of the basin, subject to applicable
19 provisions of the Water Code.

20 (b) The authority may exercise the powers of
21 control and use of the state's water in the manner and
22 for the following purposes:

23 (1) to provide for the control and
24 coordination of water use in the basin as a unit;

25 (2) to provide by adequate organization
26 and administration for the preservation of the rights
27 of the people of the different sections of the basin in
28 the beneficial use of water;

29 (3) to provide for conserving storm water,
30 floodwater, and unappropriated flow of the basin,
31 including the storage, control, transportation,
32 treatment, and distribution of that water, and the
33 prevention of the escape of water without the maximum
34 of public service and for the prevention of
35 devastation of land from recurrent overflows, and the
36 protection of life and property in the river basin from
37 uncontrolled floodwater;

38 (4) to provide for the conservation of
39 water essential for domestic and other water uses of
40 the people of the basin, including necessary water
41 supplies for cities, towns, and industrial districts;

42 (5) to provide for the irrigation of land
43 in the basin where irrigation is required for
44 agricultural purposes or is considered helpful to more
45 profitable agricultural production and for the
46 equitable distribution of storm water, floodwater, and
47 unappropriated flow water to the regional potential
48 requirements for all uses;

49 (6) to provide for the encouragement and
50 development of drainage systems and provisions for
51 drainage of land in the valleys of the basin needing
52 drainage for profitable agricultural and livestock
53 production and industrial activities, and other
54 drainage of land for the most advantageous use;

1 (7) to provide for the conservation of
2 soil against destructive erosion, thereby preventing
3 the increased flood menace incident to erosion;

4 (8) to control and make available for use
5 storm water, floodwater, and unappropriated flow water
6 as authorized by the commission, in the development of
7 commercial and industrial enterprises in all sections
8 of the watershed area of the authority;

9 (9) to provide for each purpose and use for
10 which storm water, floodwater, and unappropriated flow
11 water when controlled and conserved may be used in the
12 performance of a useful service as contemplated and
13 authorized by the provisions of the constitution and
14 laws of this state;

15 (10) to control, store, and preserve the
16 water of the basin inside the boundaries of the
17 authority for any useful purpose;

18 (11) to use, distribute, and sell water
19 for any beneficial purpose inside and outside the
20 authority; and

21 (12) to acquire water and water rights
22 inside and outside the authority.

23 (c) Plans and works provided by the authority or
24 under authorization of the authority should give
25 primary consideration to the necessary and potential
26 needs for water by or within the various areas within
27 the watershed of the basin.

28 Revisor's Note

29 (1) Section 17(a), Chapter 3, Acts of the 69th
30 Legislature, 1st Called Session, 1985, provides that,
31 "[s]ubject to the constitution and other laws of this
32 state and the continuing right of supervision of the
33 state through the commission," the authority has
34 certain powers, "subject to applicable provisions of
35 the Water Code." The revised law omits the reference
36 to the constitution and other laws of this state and
37 the applicable provisions of the Water Code because
38 the applicable provisions of those laws apply by their
39 own terms. The revised law omits the reference to the
40 continuing right of supervision of the state through
41 the Texas Water Commission because the Texas
42 Commission on Environmental Quality is the successor
43 to the Texas Water Commission, and therefore the
44 provision duplicates in substance part of Section
45 12.081, Water Code, which subjects certain special
46 districts and authorities, including the authority, to
47 supervision by the Texas Commission on Environmental

1 Quality.

2 (2) Section 17(b)(4), Chapter 3, Acts of the
3 69th Legislature, 1st Called Session, 1985, refers to
4 "cities" and "towns." The revised law substitutes
5 "municipalities" for "cities" and "towns" because the
6 meaning of "municipalities" includes both cities and
7 towns, and "municipalities" is the term used in the
8 Local Government Code.

9 Revised Law

10 Sec. 8508.0105. USE OF BEDS AND BANKS OF SULPHUR RIVER AND
11 ITS TRIBUTARIES. Subject to the approval of the commission, the
12 authority may use the beds and banks of the Sulphur River and its
13 tributary streams for any purpose necessary to accomplish the
14 authority's plans for storing, controlling, conserving,
15 transporting, and distributing storm water, floodwater, and
16 appropriated flow waters for useful purposes. (Acts 69th Leg., 1st
17 C.S., Ch. 3, Sec. 36.)

18 Source Law

19 Sec. 36. Subject to the approval of the
20 commission, the authority may use the beds and banks of
21 the Sulphur River and its tributary streams for any
22 purposes necessary to accomplish the plans of the
23 authority for storing, controlling, conserving,
24 transporting, and distributing storm water,
25 floodwater, and appropriated flow waters for useful
26 purposes.

27 Revised Law

28 Sec. 8508.0106. WATER CONSERVATION PROGRAM. (a) In this
29 section, "program of water conservation" means the use of
30 practices, techniques, and technologies that will reduce water
31 consumption, reduce water loss or waste, improve efficiency in
32 water use, or increase water recycling and reuse so that a water
33 supply is available for future uses.

34 (b) The authority shall adopt and implement a program of
35 water conservation consistent with rules and criteria adopted and
36 enforceable by the commission and development board for similarly
37 situated authorities. (Acts 69th Leg., 1st C.S., Ch. 3, Sec.

1 17(d).)

2 Source Law

3 (d) The authority shall adopt and implement a
4 program of water conservation consistent with rules
5 and criteria duly adopted and enforceable by the
6 commission and development board for similarly
7 situated authorities. A program of water conservation
8 means the use of practices, techniques, and
9 technologies that will reduce the consumption of
10 water, reduce the loss or waste of water, improve
11 efficiency in the use of water, or increase the
12 recycling and reuse of water so that a water supply is
13 made available for future uses.

14 Revisor's Note

15 Section 17(d), Chapter 3, Acts of the 69th
16 Legislature, 1st Called Session, 1985, refers to
17 "duly" adopted rules and criteria. The revised law
18 omits "duly" as unnecessary in this context because
19 the word does not add to the clear meaning of the law. A
20 rule or criterion must be "duly" adopted in order for
21 the rule or criterion to be enforceable.

22 Revised Law

23 Sec. 8508.0107. GROUNDWATER. (a) The authority may
24 conduct surveys and studies of the groundwater supplies in the
25 authority to:

26 (1) determine the location and quantity of available
27 groundwater; and

28 (2) develop and ascertain other information that in
29 the judgment of the board may be necessary to fully develop water
30 uses from the groundwater in the authority.

31 (b) With the approval and under the supervision of the
32 commission, the authority may appropriate storm water and
33 floodwater to recharge underground freshwater-bearing sand and
34 aquifers in the basin. (Acts 69th Leg., 1st C.S., Ch. 3, Sec. 19.)

35 Source Law

36 Sec. 19. (a) The authority may conduct surveys
37 and studies of the groundwater supplies in the
38 authority for the purpose of determining the location
39 and quantity of groundwater available, and to develop
40 and ascertain other data and information that in the
41 judgment of the board may be necessary to fully develop
42 water uses from the groundwater in the authority.

1 (b) Subject to the requirements of applicable
2 laws and with the approval and under the supervision of
3 the commission, the authority may appropriate storm
4 water and floodwater to recharge underground
5 freshwater-bearing sand and aquifers in the basin.

6 Revisor's Note

7 (1) Section 19(a), Chapter 3, Acts of the 69th
8 Legislature, 1st Called Session, 1985, refers to "data
9 and information." The revised law omits the term
10 "data" because, in this context, the meaning of
11 "information" includes "data."

12 (2) Section 19(b), Chapter 3, Acts of the 69th
13 Legislature, 1st Called Session, 1985, provides that,
14 "[s]ubject to the requirements of applicable laws,"
15 the authority may appropriate storm water and
16 floodwater for certain purposes. The revised law
17 omits the quoted language for the reason stated in
18 Revisor's Note (1) to Section 8508.0104.

19 Revised Law

20 Sec. 8508.0108. APPLICABILITY OF CERTAIN ENVIRONMENTAL
21 LAWS. The authority is a river authority for the purposes and
22 definitions of Chapter 30, Water Code, and Chapter 383, Health and
23 Safety Code, as they apply to the authority. (Acts 69th Leg., 1st
24 C.S., Ch. 3, Sec. 20 (part).)

25 Source Law

26 Sec. 20. The authority is a river authority for
27 the purposes and definitions of Chapter 30, Water
28 Code, and the Clean Air Financing Act (Article
29 4477-5a, Vernon's Texas Civil Statutes) as they apply
30 to the authority. . . .

31 Revisor's Note

32 (1) Section 20, Chapter 3, Acts of the 69th
33 Legislature, 1st Called Session, 1985, refers to the
34 "Clean Air Financing Act (Article 4477-5a, Vernon's
35 Texas Civil Statutes)." Throughout this chapter, the
36 revised law substitutes "Chapter 383, Health and
37 Safety Code," for the quoted language because the
38 Clean Air Financing Act was revised in 1989 as Chapter

1 383, Health and Safety Code.

2 (2) Section 20, Chapter 3, Acts of the 69th
3 Legislature, 1st Called Session, 1985, provides that
4 in the event of a conflict between Chapter 3 and a
5 provision of the Clean Air Financing Act, Chapter 3
6 prevails. The revised law omits the provision because
7 it is both unnecessary and potentially misleading. To
8 the extent it means Chapter 3 prevails over provisions
9 of the Clean Air Financing Act in existence at the time
10 Chapter 3 became effective and with which the chapter
11 conflicts, the provision merely restates general rules
12 of statutory construction. To the extent it means
13 Chapter 3 prevails over any future amendments to the
14 Clean Air Financing Act that may conflict with the
15 chapter, it is misleading. It is a fundamental
16 principle of statutory construction that one session
17 of the legislature may not bind a future session of the
18 legislature. In addition, Section 311.026, Government
19 Code (Code Construction Act), governs the
20 interpretation of the revised law in instances of
21 apparent conflict with other laws. The omitted law
22 reads:

23 Sec. 20. . . . If a provision of the
24 Clean Air Financing Act conflicts with this
25 Act, this Act prevails.

26 Revised Law

27 Sec. 8508.0109. PERMITS AND LICENSES. (a) The authority
28 must apply for any permit, license, or other grant of authority
29 required from the commission.

30 (b) The authority may apply for any permit, license, or
31 financial assistance it may need from any federal, state, or local
32 governmental agency. (Acts 69th Leg., 1st C.S., Ch. 3, Secs. 23(a),
33 (b).)

34 Source Law

35 Sec. 23. (a) The authority shall apply for any

1 permits, licenses, and other grants of authority
2 required from the commission.

3 (b) The authority may apply for any permits,
4 licenses, and financial assistance it may need from
5 any federal, state, or local governmental agency.

6 Revised Law

7 Sec. 8508.0110. CONSULTATION WITH COUNTY JUDGE FOR CERTAIN
8 PROPOSED PROJECTS. Before voting on a proposed project for which
9 the board will seek a permit, the board shall obtain advice on the
10 project from the county judge of each county in which the project is
11 proposed to be located. (Acts 69th Leg., 1st C.S., Ch. 3, Sec.
12 23(c).)

13 Source Law

14 (c) Before voting on a proposed project for
15 which the board will seek a permit, the board shall
16 obtain advice on the proposed project from the county
17 judge of each county in which the proposed project is
18 proposed to be located.

19 Revised Law

20 Sec. 8508.0111. SERVICE CONTRACTS AND CHARGES. (a) The
21 authority may enter into service contracts and may adopt
22 resolutions and orders establishing rates and providing for the
23 collection of fees and charges for:

24 (1) the sale or use of water;

25 (2) the services of water transmission, treatment, and
26 storage facilities;

27 (3) liquid waste collection, treatment, and disposal
28 services and facilities;

29 (4) the sale of power and electric energy; and

30 (5) any other services or facilities sold, furnished,
31 or supplied by the authority.

32 (b) The fees and charges must be sufficient to produce
33 revenues adequate to:

34 (1) pay expenses necessary for the operation and
35 maintenance of the authority's property and facilities;

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

38 (3) fulfill any reserve or other fund obligations of

1 the authority in connection with the bonds or other obligations;
2 and

3 (4) pay any other expenses the board may consider
4 necessary and proper for the authority's operations. (Acts 69th
5 Leg., 1st C.S., Ch. 3, Sec. 24.)

6 Source Law

7 Sec. 24. (a) The authority may enter into
8 service contracts and may adopt resolutions and orders
9 establishing rates and providing for the collection of
10 fees and charges for the sale or use of water, the
11 services of water transmission, treatment, and storage
12 facilities, liquid waste collection, treatment and
13 disposal facilities and services, the sale of power
14 and electric energy, and any other services or
15 facilities sold, furnished, or supplied by the
16 authority.

17 (b) The fees and charges shall be sufficient to
18 produce revenues adequate to:

19 (1) pay expenses necessary for the
20 operation and maintenance of the property and
21 facilities of the authority;

22 (2) pay the principal of and interest on
23 any bonds or other obligations issued by the authority
24 when due and payable and to fulfill any reserve or
25 other fund obligations of the authority in connection
26 with the bonds or other obligations; and

27 (3) pay any other expenses the board may
28 consider necessary and proper for the operations of
29 the authority.

30 Revised Law

31 Sec. 8508.0112. ACQUISITION, MAINTENANCE, AND OPERATION OF
32 PROPERTY. The authority may purchase, lease, acquire by gift,
33 maintain, use, and operate property of any kind inside or outside
34 the authority that is appropriate for the exercise of its powers or
35 the accomplishment of its purposes. (Acts 69th Leg., 1st C.S., Ch.
36 3, Sec. 26(a).)

37 Source Law

38 Sec. 26. (a) The authority may purchase, lease,
39 acquire by gift, maintain, use, and operate property
40 of any kind inside or outside the authority,
41 appropriate for the exercise of its powers or
42 accomplishment of its purposes.

43 Revised Law

44 Sec. 8508.0113. ACQUISITION, CONSTRUCTION, MAINTENANCE,
45 AND OPERATION OF FACILITIES. The authority may acquire, construct,
46 extend, improve, maintain, reconstruct, use, and operate
47 facilities inside or outside the authority that are necessary or

1 convenient for the exercise of its powers, rights, duties, and
2 functions or the accomplishment of its purposes. (Acts 69th Leg.,
3 1st C.S., Ch. 3, Sec. 27.)

4 Source Law

5 Sec. 27. The authority may acquire, construct,
6 extend, improve, maintain, reconstruct, use, and
7 operate any facilities inside or outside the authority
8 necessary or convenient to the exercise of its powers,
9 rights, duties, and functions or accomplishments of
10 its purposes.

11 Revised Law

12 Sec. 8508.0114. EMINENT DOMAIN. (a) The authority may
13 exercise the power of eminent domain to acquire land inside or
14 outside the authority to carry out a power, right, privilege, or
15 function authorized by this chapter if the board, after notice and
16 hearing, determines that the action is necessary.

17 (b) The authority must exercise the power of eminent domain
18 in the manner provided by Chapter 21, Property Code, except that the
19 authority is not required to:

20 (1) give bond for appeal or bond for costs in a
21 condemnation suit or other suit to which it is a party; or

22 (2) deposit double the amount of any award in any suit.

23 (c) The authority's authority under this section to
24 exercise the power of eminent domain expired on September 1, 2013,
25 unless the authority submitted a letter to the comptroller in
26 accordance with Section 2206.101(b), Government Code, not later
27 than December 31, 2012. (Acts 69th Leg., 1st C.S., Ch. 3, Secs.
28 25(a), (b); New.)

29 Source Law

30 Sec. 25. (a) The authority may acquire land
31 inside and outside the authority to carry out the
32 powers, rights, privileges, authority, and functions
33 authorized by this Act by condemnation when the board
34 determines, after notice and hearing, that it is
35 necessary.

36 (b) The right of eminent domain shall be
37 exercised by the authority in the manner provided by
38 Chapter 21, Property Code, except that the authority
39 is not required to give bond for appeal or bond for
40 costs in a condemnation suit or other suit to which it
41 is a party and is not required to deposit double the
42 amount of any award in any suit.

1 Revisor's Note

2 (1) Section 25(a), Chapter 3, Acts of the 69th
3 Legislature, 1st Called Session, 1985, refers to the
4 authority's "powers" and "authority." The revised law
5 omits the reference to "authority" because, in
6 context, it is included in the meaning of "powers."

7 (2) Section 25(a), Chapter 3, Acts of the 69th
8 Legislature, 1st Called Session, 1985, provides that
9 "[t]he authority may acquire [certain land for certain
10 purposes] by condemnation." The revised law
11 substitutes for the quoted language "[t]he authority
12 may exercise the power of eminent domain to acquire
13 [certain land for certain purposes]" because the
14 phrases have the same meaning and the latter phrase is
15 consistent with modern usage in laws relating to
16 eminent domain.

17 (3) Section 25, Chapter 3, Acts of the 69th
18 Legislature, 1st Called Session, 1985, provides the
19 authority limited eminent domain authority. Section
20 2206.101, Government Code, requires an entity with
21 eminent domain authority to submit a letter with
22 certain information to the comptroller not later than
23 December 31, 2012, to prevent the entity's eminent
24 domain authority from expiring on September 1, 2013.
25 To avoid the appearance that this revision recognizes
26 authority that the authority may not possess at the
27 time of the revision, the revised law includes a
28 provision setting out the requirements of Section
29 2206.101, Government Code.

30 Revised Law

31 Sec. 8508.0115. COST OF RELOCATING OR ALTERING PROPERTY.

32 (a) In this section, "sole expense" means the actual cost of
33 relocating, raising, lowering, rerouting, changing the grade of, or
34 altering the construction of a facility described by Subsection (b)

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

4 (b) If the authority's exercise of the power of eminent
5 domain makes necessary relocating, raising, lowering, rerouting,
6 changing the grade of, or altering the construction of a highway,
7 railroad, electric transmission or distribution line, telephone or
8 telegraph property or facility, or pipeline, the necessary action
9 shall be accomplished at the sole expense of the authority. (Acts
10 69th Leg., 1st C.S., Ch. 3, Sec. 25(c).)

11 Source Law

12 (c) If the authority, in the exercise of the
13 power of eminent domain, makes necessary the
14 relocation, raising, lowering, rerouting, or change in
15 grade, or alteration of the construction of any
16 highway, railroad, electric transmission or
17 distribution line, telephone or telegraph properties
18 and facilities, or pipeline, all necessary
19 relocations, raising, lowering, rerouting, change in
20 grade, or alteration of construction shall be
21 accomplished at the sole expense of the authority.
22 "Sole expense" means the actual cost of relocation,
23 raising, lowering, rerouting, or change in grade or
24 alteration of construction to provide comparable
25 replacement without enhancement of facilities, after
26 deducting the net salvage value derived from the old
27 facility.

28 Revised Law

29 Sec. 8508.0116. SALE, LEASE, EXCHANGE, OR OTHER DISPOSITION
30 OF PROPERTY. The authority may:

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

34 (A) Section 552.014, Local Government Code;

35 (B) Chapter 30, Water Code; or

36 (C) Chapter 383, Health and Safety Code; or

37 (2) lease, exchange, or otherwise dispose of any
38 property or interest in property. (Acts 69th Leg., 1st C.S., Ch. 3,
39 Sec. 26(b).)

40 Source Law

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

1 installments or otherwise, including sales in any
2 manner prescribed or authorized by Chapter 224, Acts
3 of the 56th Legislature, Regular Session, 1959
4 (Article 1109j, Vernon's Texas Civil Statutes),
5 Chapter 30, Water Code, and the Clean Air Financing Act
6 (Article 4477-5a, Vernon's Texas Civil Statutes). The
7 authority may also lease, exchange, or otherwise
8 dispose of any property or interest in property.

9 Revisor's Note

10 Section 26(b), Chapter 3, Acts of the 69th
11 Legislature, 1st Called Session, 1985, refers to
12 Chapter 224, Acts of the 56th Legislature, Regular
13 Session, 1959 (Article 1109j, Vernon's Texas Civil
14 Statutes). Article 1109j was codified in 1987 as
15 Section 402.014, Local Government Code. Section
16 402.014, Local Government Code, was renumbered as
17 Section 552.014, Local Government Code, by Section
18 3.76(a)(2)(B), Chapter 885, Acts of the 80th
19 Legislature, Regular Session, 2007. The revised law
20 is drafted accordingly.

21 Revised Law

22 Sec. 8508.0117. GENERAL CONTRACT POWERS. (a) The
23 authority may enter into a contract or execute an instrument that is
24 necessary or convenient for the exercise of its powers, rights,
25 duties, and functions or the accomplishment of its purposes.

26 (b) Notwithstanding any other law, the authority may:

27 (1) undertake and carry out an activity that is
28 related to or necessary in carrying out or performing a power or
29 function of the authority;

30 (2) enter into a contract, loan agreement, lease, or
31 installment sales agreement;

32 (3) acquire, purchase, construct, own, operate,
33 maintain, repair, improve, or extend, or loan, lease, sell, or
34 otherwise dispose of, including by such methods as a loan payment,
35 rental, sale, or installment sale, as the parties may agree, any
36 facility, plant, building, structure, equipment, or appliance or
37 property or any interest in property; and

38 (4) use any or all money or proceeds of bonds and other

1 obligations. (Acts 69th Leg., 1st C.S., Ch. 3, Secs. 29(a), (b).)

2 Source Law

3 Sec. 29. (a) The authority may enter into
4 contracts and execute instruments that are necessary
5 or convenient to the exercise of its powers, rights,
6 duties, and functions or the accomplishment of its
7 purposes.

8 (b) Notwithstanding any other law, the
9 authority may:

10 (1) undertake and carry out any activities
11 that are related to or necessary in carrying out or
12 performing any power or function of the authority;

13 (2) enter into contracts, loan agreements,
14 leases, or installment sales agreements;

15 (3) acquire, purchase, construct, own,
16 operate, maintain, repair, improve, or extend, and
17 loan, lease, sell, or otherwise dispose of, including
18 by such methods as loan payments, rentals, sales, and
19 installment sales, as the parties may agree, any
20 facilities, plants, buildings, structures, equipment,
21 and appliances and property or any interest in
22 property; and

23 (4) use any or all money or proceeds of
24 bonds and other obligations.

25 Revised Law

26 Sec. 8508.0118. POWER OF PERSONS TO CONTRACT WITH
27 AUTHORITY. (a) A person may contract with the authority in any
28 manner authorized by this chapter, Chapter 30, Water Code, or
29 Chapter 383, Health and Safety Code, with respect to water, waste,
30 pollution control, or any other facility or any service provided by
31 the authority.

32 (b) A public agency may enter into and execute a contract
33 described by Subsection (a) with the authority and may determine,
34 agree, and pledge that all or any part of its payments under the
35 contract is payable from the source described in Section 30.030(c),
36 Water Code, subject only to the authorization of the contract,
37 pledge, and payments by the public agency's governing body. The
38 public agency also may use and pledge any other available revenue or
39 resource for payment of amounts due under the contract as an
40 additional source of payment or as the sole source of payment.

41 (c) A public agency may:

42 (1) set fees, rates, charges, rentals, and other
43 amounts, including water charges and garbage collection or handling
44 fees, for any services or facilities provided by any utility

1 operated by it, or provided pursuant to or in connection with any
2 contract with the authority;

3 (2) charge those amounts to and collect those amounts
4 from its inhabitants or from any users or beneficiaries of the
5 utility, services, or facilities; and

6 (3) use and pledge that money to make payments to the
7 authority required under the contract and may covenant to do so in
8 amounts sufficient to make all or any part of those payments to the
9 authority when due.

10 (d) If a public agency and the authority agree in a
11 contract, the payments made by the public agency to the authority
12 under the contract are an expense of operation of any facilities or
13 utility operated by the public agency. (Acts 69th Leg., 1st C.S.,
14 Ch. 3, Secs. 29(c), (d).)

15 Source Law

16 (c) All persons are authorized to contract with
17 the authority in any manner authorized by this Act,
18 Chapter 30, Water Code, and the Clean Air Financing Act
19 (Article 4477-5a, Vernon's Texas Civil Statutes) with
20 respect to water, waste, pollution control, or any
21 other facilities and any services provided by the
22 authority. A public agency also may enter into and
23 execute such a contract with the authority and may
24 determine, agree, and pledge that all or any part of
25 its payments under the contract is payable from the
26 source described in Section 30.030(c), Water Code,
27 subject only to the authorization of the contract,
28 pledge, and payments by the governing body of the
29 public agency. A public agency also may use and pledge
30 any other available revenues or resources for payment
31 of amounts due under those contracts, as an additional
32 source or sources of payment or as the sole source or
33 sources of payment.

34 (d) A public agency may fix, charge, and collect
35 fees, rates, charges, rentals, and other amounts for
36 any services or facilities provided by any utility
37 operated by it, or provided pursuant to or in
38 connection with any contract with the authority, from
39 its inhabitants or from any users or beneficiaries of
40 the utility, services, or facilities, including
41 specifically water charges and garbage collection or
42 handling fees and other fees or charges, and may use
43 and pledge those funds to make payments to the
44 authority required under the contract, and may
45 covenant to do so in amounts sufficient to make all or
46 any part of those payments to the authority when due.
47 If the parties agree in the contract, those payments
48 constitute an expense of operation of any facilities
49 or utility operated by the public agency.

1 Revisor's Note

2 (1) Section 29(d), Chapter 3, Acts of the 69th
3 Legislature, 1st Called Session, 1985, authorizes a
4 public agency to "fix" fees, rates, charges, rentals,
5 and other amounts for certain services or facilities.
6 The revised law substitutes "set" for "fix" because
7 the terms are synonymous in this context and "set" is
8 more commonly used.

9 (2) Section 29(d), Chapter 3, Acts of the 69th
10 Legislature, 1st Called Session, 1985, authorizes a
11 public agency to use and pledge certain "funds" to make
12 certain payments. Throughout this chapter, the
13 revised law substitutes "money" for "funds" because,
14 in the context of money of a public agency or another
15 entity, the meaning is the same and "money" is the more
16 commonly used term.

17 Revised Law

18 Sec. 8508.0119. AWARD OF CERTAIN CONTRACTS. (a) The
19 authority shall award a contract to the lowest and best bidder if:

20 (1) the contract is a:

21 (A) construction, maintenance, operation, or
22 repair contract;

23 (B) contract for the purchase of material,
24 equipment, or supplies; or

25 (C) contract for services other than technical,
26 scientific, legal, fiscal, or other professional services; and

27 (2) the contract:

28 (A) will require an estimated expenditure of more
29 than \$10,000; or

30 (B) is for a term of six months or more.

31 (b) If the board finds that an extreme emergency exists, the
32 board may award a contract necessary to protect and preserve the
33 public health and welfare or the property of the authority without
34 using bidding procedures.

1 (c) The authority shall publish notice to bidders once each
2 week for three consecutive weeks before the date set for awarding
3 the contract. The notice must be published in a newspaper with
4 general circulation in the authority and may also be published in
5 any other appropriate publication.

6 (d) The notice is sufficient if it states:

7 (1) the time and place at which the bids will be
8 opened;

9 (2) the terms on which copies of the plans,
10 specifications, or other pertinent information may be obtained;

11 (3) the general nature of the work to be done; and

12 (4) the material, equipment, or supplies to be
13 purchased or the nonprofessional services to be rendered.

14 (e) A person who desires to bid on the construction of a work
15 or project that is advertised for bids shall, on written
16 application to the authority, be provided a copy of the plans and
17 specifications or other engineering and architectural documents
18 showing all of the details of the work to be done. The authority may
19 make a charge to cover the cost of making the copy.

20 (f) A bid must be:

21 (1) in writing;

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

23 (3) accompanied by a certified check drawn on a
24 responsible bank in this state or, at the discretion of the
25 authority, a bid bond from a company approved by the authority, in
26 an amount equal to at least one percent of the total amount bid.

27 (g) The authority shall open bids at the place specified in
28 the published notice. The authority shall announce the bids. The
29 place where the bids are opened and announced must be open to the
30 public. The board shall make the award of the contract.

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

33 (i) A check or bond provided under Subsection (f) is
34 forfeited to the authority if the successful bidder fails or

1 refuses to:

2 (1) enter into a proper contract; or

3 (2) provide a bond as required by law.

4 (j) The authority may reject any or all bids and may waive
5 any irregularity in the bids.

6 (k) This section does not prohibit the authority from taking
7 the following actions by negotiated contract and without necessity
8 for advertising for bids:

9 (1) purchasing or acquiring land or an interest in
10 land from any person;

11 (2) acquiring, constructing, or improving pollution
12 control or waste collection and disposal facilities as provided by
13 Chapter 30, Water Code, Chapter 383, Health and Safety Code, or
14 other applicable law; or

15 (3) purchasing or acquiring surplus property from a
16 governmental entity. (Acts 69th Leg., 1st C.S., Ch. 3, Secs. 30(a),
17 (b), (c), (d), (e), (g), (h).)

18 Source Law

19 Sec. 30. (a) A construction, maintenance,
20 operation, or repair contract, a contract for the
21 purchase of material, equipment, or supplies, or a
22 contract for services other than technical,
23 scientific, legal, fiscal, or other professional
24 services, that will require an estimated expenditure
25 of more than \$10,000, or is for a term of six months or
26 more, shall be awarded to the lowest and best bidder.
27 A notice to bidders shall be published once each week
28 for three consecutive weeks before the date set for
29 awarding the contract. If the board finds that an
30 extreme emergency exists, the board may award
31 contracts necessary to protect and preserve the public
32 health and welfare or the property of the authority
33 without using the bidding procedures.

34 (b) The notice of bids is sufficient if it
35 states the time and place at which the bids will be
36 opened, the general nature of the work to be done, the
37 material, equipment, or supplies to be purchased, or
38 the nonprofessional services to be rendered, and
39 states the terms on which copies of the plans,
40 specifications, or other pertinent information may be
41 obtained.

42 (c) Notice shall be published in a newspaper
43 with general circulation in the authority and may also
44 be published in any other appropriate publication.

45 (d) A person who desires to bid on the
46 construction of any work or project that is advertised
47 for bids shall, on written application to the
48 authority, be furnished with a copy of the plans and
49 specifications or other engineering and architectural

1 documents showing the work to be done and all of the
2 details of the work to be done. The authority may make
3 a charge to cover the cost of making the copy. Bids
4 must be in writing, and sealed and delivered to the
5 authority, and must be accompanied by a certified
6 check on a responsible bank in this state or, at the
7 discretion of the authority, a bid bond from a company
8 approved by the authority, for at least one percent of
9 the total amount bid. The check or bond is forfeited
10 to the authority if the successful bidder fails or
11 refuses to enter into a proper contract or fails or
12 refuses to furnish bond as required by law. Any or all
13 bids may be rejected by the authority, and the
14 authority may waive any irregularity in the bids.

15 (e) Bids shall be opened at the place specified
16 in the published notice and shall be announced by the
17 authority. The place where the bids are opened and
18 announced shall be open to the public. The award of
19 the contract shall be made by the board.

20 (g) The person, firm, or corporation with whom
21 the contract is made shall provide the performance and
22 payment bonds required by law.

23 (h) This section does not prohibit the authority
24 from purchasing or acquiring land or interests in land
25 from any person, or from acquiring, constructing, or
26 improving pollution control or waste collection and
27 disposal facilities as provided by Chapter 30, Water
28 Code, the Clean Air Financing Act (Article 4477-5a,
29 Vernon's Texas Civil Statutes), or other applicable
30 laws, or purchasing or acquiring surplus property from
31 a governmental entity by negotiated contract and
32 without necessity for advertising for bids.

33 Revisor's Note

34 Section 30(g), Chapter 3, Acts of the 69th
35 Legislature, 1st Called Session, 1985, requires a
36 person, "firm, or corporation" to provide certain
37 bonds. The revised law omits the quoted language
38 because under Section 311.005(2), Government Code
39 (Code Construction Act), "person" is defined to
40 include any legal entity.

41 Revised Law

42 Sec. 8508.0120. CONSTRUCTION CONTRACTS: PAYMENT. (a) The
43 contract price of any construction contract of the authority may be
44 paid in partial payments as the work progresses, but the payments
45 may not exceed 90 percent of the amount due at the time of the
46 payments as shown by the report of the engineer of the authority.

47 (b) During the progress of the work, the executive director
48 shall inspect the construction or have the construction inspected
49 by the authority's engineer or the engineer's assistants.

1 (c) On certification of the executive director and the
2 authority's engineer of the completion of the contract in
3 accordance with its terms and, in the case of any construction
4 contract for which notice to bidders is required by this chapter, on
5 approval of the board, the board shall draw a warrant on its
6 depository to pay the balance due on the contract. (Acts 69th Leg.,
7 1st C.S., Ch. 3, Sec. 30(f).)

8 Source Law

9 (f) The contract price of all construction
10 contracts of the authority may be paid in partial
11 payment as the work progresses, but the payments shall
12 not exceed 90 percent of the amount due at the time of
13 the payment as shown by the report of the engineer of
14 the authority. During the progress of the work, the
15 executive director shall inspect the construction or
16 have the construction inspected by the authority's
17 engineer or his assistants. On certification of the
18 executive director and the authority's engineer of the
19 completion of the contract in accordance with its
20 terms, and in the case of any construction contract for
21 which notice to bidders is required by this Act, on
22 approval of the board, the board shall draw a warrant
23 on its depository to pay the balance due on the
24 contract.

25 Revised Law

26 Sec. 8508.0121. CONFLICT OF INTEREST IN CONTRACT. An
27 officer, agent, or employee of the authority who is financially
28 interested in a contract shall disclose that fact to the board
29 before the board votes on the acceptance of the contract. (Acts
30 69th Leg., 1st C.S., Ch. 3, Sec. 30(i).)

31 Source Law

32 (i) An officer, agent, or employee of the
33 authority who is financially interested in a contract
34 shall disclose that fact to the board before the board
35 votes on the acceptance of the contract.

36 Revised Law

37 Sec. 8508.0122. SURVEYS AND ENGINEERING INVESTIGATIONS.
38 The authority may make surveys and engineering investigations to
39 develop information for its use. (Acts 69th Leg., 1st C.S., Ch. 3,
40 Sec. 34 (part).)

41 Source Law

42 Sec. 34. The authority may make surveys and
43 engineering investigations to develop information for
44 its use, and . . .

1 Revised Law

2 Sec. 8508.0123. PLANS. The board may make and determine
3 plans necessary to accomplish the purposes for which the authority
4 is created and may carry out the plans. (Acts 69th Leg., 1st C.S.,
5 Ch. 3, Sec. 34 (part).)

6 Source Law

7 Sec. 34. . . . the board may make and determine
8 plans necessary to accomplish the purposes for which
9 the authority is created and may carry out the plans.

10 Revised Law

11 Sec. 8508.0124. ACCESS TO AUTHORITY PROPERTY. (a) To
12 provide for the safety and welfare of persons and their property or
13 for the protection and security of the authority's property and
14 facilities, the board may adopt rules with respect to the
15 authority's property and any water reservoir or dam the
16 construction, operation, or management of which is participated in
17 by the authority to control and regulate:

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

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

20 (b) All public roads, streets, and state highways that as of
21 August 29, 1985, traversed the areas to be covered by any impounded
22 water shall remain open as a way of public passing to and from the
23 lakes created, unless changed by the authority. (Acts 69th Leg.,
24 1st C.S., Ch. 3, Sec. 35.)

25 Source Law

26 Sec. 35. (a) To provide for the safety and
27 welfare of persons and their property or for the
28 protection and security of the property and facilities
29 of the authority, the board may adopt rules with
30 respect to the property of the authority and any water
31 reservoir or dam, the construction, operation, or
32 management of which is participated in by the
33 authority, to control and regulate ingress, egress,
34 and use, and the operation of land and water vehicles.

35 (b) All public roads, streets, and state
36 highways now traversing the areas to be covered by any
37 impounded water shall remain open as a way of public
38 passing to and from the lakes created, unless changed
39 by the authority.

40 Revisor's Note

41 Section 35(b), Chapter 3, Acts of the 69th

1 Legislature, 1st Called Session, 1985, refers to
2 public roads, streets, and state highways "now"
3 traversing certain areas. The revised law refers to
4 public roads, streets, and state highways "that as of
5 August 29, 1985," traversed those areas because that
6 was the effective date of Chapter 3.

7 Revised Law

8 Sec. 8508.0125. AUTHORITY TO EXERCISE POWERS OF POLITICAL
9 SUBDIVISIONS UNDER WATER CODE. The authority may exercise:

10 (1) the powers vested in political subdivisions under
11 Title 2, Water Code; and

12 (2) the powers necessary to enable the authority to
13 participate in programs administered by the development board,
14 including programs for:

15 (A) the acquisition and development of
16 facilities;

17 (B) the sale or lease of facilities; and

18 (C) financial assistance to political
19 subdivisions. (Acts 69th Leg., 1st C.S., Ch. 3, Sec. 37.)

20 Source Law

21 Sec. 37. (a) The authority has and may
22 exercise all the powers vested in political
23 subdivisions under Title 2, Water Code.

24 (b) The authority has and may exercise the
25 powers necessary to enable the authority to
26 participate in the programs administered by the
27 development board for the acquisition and development
28 of facilities, the sale or lease of facilities,
29 financial assistance to political subdivisions, and
30 other programs administered by the development board.

31 Revised Law

32 Sec. 8508.0126. LIMITATIONS ON POWERS AND DUTIES OF
33 AUTHORITY; COMMISSION APPROVAL OF CERTAIN PLANS. (a) The powers
34 granted and duties prescribed by this chapter are subject to all
35 legislative declarations of public policy in the maximum use of the
36 storm water, floodwater, and unappropriated flow water of the basin
37 for the purposes for which the authority is created.

38 (b) The commission shall consider the adequacy of, and

1 approve or refuse to approve, any flood control or conservation
2 improvement plan that:

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

5 (2) contemplates improvements that are to be
6 supervised by the commission under general law. (Acts 69th Leg.,
7 1st C.S., Ch. 3, Secs. 39(a) (part), (b).)

8 Source Law

9 Sec. 39. (a) The powers and duties granted and
10 prescribed by this Act are taken subject to all
11 legislative declarations of public policy in the
12 maximum use of the storm water, floodwater, and
13 unappropriated flow water of the basin for the
14 purposes for which the authority is created and

15 (b) The commission shall approve or refuse to
16 approve the adequacy of any plan or plans for flood
17 control or conservation improvement purposes devised
18 by the authority for the achievement of the plans and
19 purposes intended in the creation of the authority and
20 that contemplate improvements supervised by the
21 commission under general law.

22 Revisor's Note

23 Section 39(a), Chapter 3, Acts of the 69th
24 Legislature, 1st Called Session, 1985, provides that
25 the powers and duties of the authority are subject to
26 the supervision of the state, acting through the
27 commission. The revised law omits the provision
28 because it duplicates, in substance, part of Section
29 12.081, Water Code, which applies to the authority.
30 The omitted law reads:

31 Sec. 39. (a) [The powers and duties
32 granted and prescribed by this Act are]
33 . . . subject to the continuing right of
34 supervision of the state through the
35 commission.

36 Revised Law

37 Sec. 8508.0127. SUITS. (a) The authority may sue and be
38 sued in the name of the authority.

39 (b) Service of process may be accomplished by serving the
40 presiding officer or a vice president of the board or the executive
41 director. (Acts 69th Leg., 1st C.S., Ch. 3, Secs. 15(a), (b).)

1 Source Law

2 Sec. 15. (a) The authority may sue and be sued
3 in the name of the authority.

4 (b) Service of process may be accomplished by
5 serving the president or vice-president of the board
6 or the executive director.

7 Revisor's Note

8 (1) Section 15(b), Chapter 3, Acts of the 69th
9 Legislature, 1st Called Session, 1985, refers to the
10 "president" of the board, meaning the board's
11 presiding officer. For consistency with other
12 sections of this chapter, the revised law substitutes
13 "presiding officer" for "president."

14 (2) Section 15(c), Chapter 3, Acts of the 69th
15 Legislature, 1st Called Session, 1985, requires courts
16 to take judicial notice of the establishment of the
17 authority. The revised law omits that provision
18 because it duplicates, in substance, part of Section
19 49.066, Water Code. The omitted law reads:

20 (c) All courts of this state shall
21 take judicial notice of the establishment
22 of the district.

23 Revisor's Note
24 (End of Subchapter)

25 (1) Section 14, Chapter 3, Acts of the 69th
26 Legislature, 1st Called Session, 1985, requires the
27 authority to adopt a seal. The revised law omits that
28 provision because it duplicates Section 49.061, Water
29 Code. The omitted law reads:

30 Sec. 14. The authority shall adopt a
31 seal.

32 (2) Section 28, Chapter 3, Acts of the 69th
33 Legislature, 1st Called Session, 1985, provides that
34 the authority may use public roadways, streets, or
35 alleys or public easements. The revised law omits the
36 provision because it duplicates, in substance, Section
37 49.220, Water Code. The omitted law reads:

38 Sec. 28. The authority may use any

1 public roadways, streets, alleys, or public
2 easements inside or outside the boundaries
3 of the authority in the exercise of its
4 powers or the accomplishment of its
5 purposes without the necessity of securing
6 a franchise.

7 SUBCHAPTER D. REGULATORY POWERS; ENFORCEMENT AND COURT REVIEW

8 PROVISIONS

9 Revised Law

10 Sec. 8508.0151. ADOPTION AND ENFORCEMENT OF RULES. (a) The
11 authority may adopt and enforce rules reasonably required to carry
12 out this chapter.

13 (b) The board shall adopt rules necessary for the conduct of
14 the authority's business.

15 (c) In adopting rules, the board shall comply, as
16 appropriate, with the requirements of Chapters 2001 and 2002,
17 Government Code.

18 (d) The board shall print its rules and provide copies to
19 any person on written request. (Acts 69th Leg., 1st C.S., Ch. 3,
20 Secs. 6(h), 31.)

21 Source Law

22 [Sec. 6]

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

26 Sec. 31. (a) The authority may adopt and
27 enforce rules reasonably required to carry out this
28 Act.

29 (b) In adopting rules, the board shall comply,
30 as appropriate, with the requirements of the
31 Administrative Procedure and Texas Register Act
32 (Article 6252-13a, Vernon's Texas Civil Statutes).

33 (c) The board shall print its rules and furnish
34 copies to any person on written request.

35 Revisor's Note

36 (1) Section 6(h), Chapter 3, Acts of the 69th
37 Legislature, 1st Called Session, 1985, provides that
38 the board "shall adopt and may amend" rules for
39 conducting the authority's business. The revised law
40 omits the provision authorizing the board to amend
41 rules because the duty to adopt rules implies the power
42 to amend rules.

1 (2) Section 31(b), Chapter 3, Acts of the 69th
2 Legislature, 1st Called Session, 1985, refers to "the
3 Administrative Procedure and Texas Register Act
4 (Article 6252-13a, Vernon's Texas Civil Statutes)."
5 Article 6252-13a was revised in 1993 as Chapters 2001
6 and 2002, Government Code. The revised law is drafted
7 accordingly.

8 Revised Law

9 Sec. 8508.0152. CIVIL PENALTY; INJUNCTIVE RELIEF. (a) A
10 person who violates a rule or order of the authority is subject to a
11 civil penalty of not less than \$50 or more than \$1,000 for each day
12 of violation.

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

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

19 (d) The authority may sue for injunctive relief and a
20 penalty in the same proceeding. (Acts 69th Leg., 1st C.S., Ch. 3,
21 Sec. 32.)

22 Source Law

23 Sec. 32. (a) A person who violates a rule or
24 order of the authority is subject to a civil penalty of
25 not less than \$50 nor more than \$1,000 for each day of
26 violation.

27 (b) The authority may sue to recover the penalty
28 in a district court in the county in which the
29 violation occurred. Penalties shall be paid to the
30 authority.

31 (c) The authority may sue for injunctive relief
32 in a district court in the county in which the
33 violation of any rule or orders occurred or is
34 threatened.

35 (d) The authority may sue for injunctive relief
36 and penalties in the same proceeding.

37 Revised Law

38 Sec. 8508.0153. COURT REVIEW. (a) A person who is
39 adversely affected by a rule or order of the authority may sue the
40 authority in a district court to set aside the rule or order before

1 the 31st day after the date on which the rule or order takes effect.

2 (b) Venue for a suit under Subsection (a) is in any county
3 located wholly or partly in the authority. (Acts 69th Leg., 1st
4 C.S., Ch. 3, Sec. 33.)

5 Source Law

6 Sec. 33. (a) A person who is adversely
7 affected by a rule or order of the authority may sue
8 the authority in a district court to set aside the rule
9 or order before the 31st day after the day on which the
10 rule or order takes effect.

11 (b) Venue for suits under Subsection (a) of this
12 section is in any county located wholly or partially in
13 the authority.

14 SUBCHAPTER E. GENERAL FINANCIAL PROVISIONS

15 Revised Law

16 Sec. 8508.0201. DISBURSEMENT OF MONEY. The authority may
17 disburse its money only by a check, draft, order, or other
18 instrument signed by the person or persons authorized in the
19 board's rules or by board resolution. (Acts 69th Leg., 1st C.S.,
20 Ch. 3, Sec. 40.)

21 Source Law

22 Sec. 40. The authority's money may be disbursed
23 only by check, draft, order, or other instrument,
24 signed by the person or persons authorized in the
25 board's rules, or by resolution of the board.

26 Revised Law

27 Sec. 8508.0202. ACCOUNTS, CONTRACTS, AND OTHER RECORDS;
28 PUBLIC INSPECTION. (a) The authority shall keep complete and
29 accurate accounts of its business transactions in accordance with
30 generally accepted methods of accounting.

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

33 (c) Except as otherwise required by law, the authority may
34 not disclose any records that it has relating to trade secrets or
35 the economics of operation of any business or industry.

36 (d) Except as provided by Subsection (c), the authority
37 shall permit reasonable public inspection of its records during
38 regular business hours under rules adopted by the board. (Acts 69th
39 Leg., 1st C.S., Ch. 3, Secs. 13(a), (c), (d), (e).)

1 Source Law

2 Sec. 13. (a) The authority shall keep complete
3 and accurate accounts of its business transactions in
4 accordance with generally accepted methods of
5 accounting.

6 (c) The authority shall keep its accounts,
7 contracts, documents, minutes, and other records at
8 its principal office.

9 (d) Except as otherwise required by law, the
10 authority shall not disclose any records that it has
11 relating to trade secrets or economics of operation of
12 any business or industry.

13 (e) Except as provided by Subsection (d) of this
14 section, the authority shall permit reasonable public
15 inspection of its records during regular business
16 hours under rules adopted by the board.

17 Revised Law

18 Sec. 8508.0203. FEES AND CHARGES. (a) The authority shall
19 establish fees and charges.

20 (b) The fees and charges may not exceed the amount necessary
21 to fulfill the obligations imposed by this chapter. (Acts 69th
22 Leg., 1st C.S., Ch. 3, Sec. 41.)

23 Source Law

24 Sec. 41. The authority shall establish fees and
25 charges that may not be higher than necessary to
26 fulfill the obligations imposed by this Act.

27 Revised Law

28 Sec. 8508.0204. TRUST MONEY. Money collected by or
29 donated, granted, loaned, or advanced to the authority is trust
30 money for the purposes provided by this chapter. (Acts 69th Leg.,
31 1st C.S., Ch. 3, Sec. 44.)

32 Source Law

33 Sec. 44. Money collected by or donated,
34 granted, loaned, or advanced to the authority is
35 declared to be trust funds for the purposes provided by
36 this Act.

37 Revised Law

38 Sec. 8508.0205. TAXES AND TAX DEBT PROHIBITED. The
39 authority may not:

40 (1) impose a tax; or

41 (2) create debt payable from taxes. (Acts 69th Leg.,
42 1st C.S., Ch. 3, Sec. 1(c).)

1 Source Law

2 (c) The authority created under this section may
3 not levy any taxes or create any debt payable out of
4 taxation.

5 Revisor's Note

6 (1) Section 1(c), Chapter 3, Acts of the 69th
7 Legislature, 1st Called Session, 1985, refers to
8 "[t]he authority created under this section." The
9 revised law omits the phrase "created under this
10 section" because "authority" is a defined term under
11 this chapter.

12 (2) Section 1(c), Chapter 3, Acts of the 69th
13 Legislature, 1st Called Session, 1985, provides that
14 the authority may not "levy" taxes. The revised law
15 substitutes "impose" for "levy" because "impose" is
16 the term generally used in Title 1, Tax Code, and
17 includes the levy of a tax.

18 Revised Law

19 Sec. 8508.0206. DEPOSITORY. (a) The board shall designate
20 one or more banks inside or outside the authority to serve as a
21 depository for the authority's money.

22 (b) Authority money shall be deposited in a depository bank,
23 except that the following may be handled as provided in a trust
24 indenture or resolution:

- 25 (1) bond proceeds or proceeds of other obligations;
26 (2) money pledged to pay the obligations described by
27 Subdivision (1);
28 (3) money placed in special funds; and
29 (4) money remitted to a bank of payment for the payment
30 of the principal of and interest on obligations.

31 (c) To the extent that money in a depository bank or a
32 trustee bank is not invested or insured by the Federal Deposit
33 Insurance Corporation, the money must be secured in the manner
34 provided by law for the security of county money.

35 (d) The board shall prescribe the term of service for a

1 depository.

2 (e) Before designating a depository bank, the board shall:

3 (1) publish notice one time in one or more newspapers
4 of general circulation in the authority that are specified by the
5 board; or

6 (2) mail a copy of the notice to each bank inside the
7 authority.

8 (f) The notice must:

9 (1) state the time and place at which the board will
10 meet to designate a depository bank or banks; and

11 (2) invite the banks to submit an application to be
12 designated a depository.

13 (g) At the time stated in the notice, the board shall:

14 (1) consider the application and the management and
15 condition of each bank that applies; and

16 (2) designate as a depository the bank or banks:

17 (A) that offer the most favorable terms for
18 handling the money; and

19 (B) that the board finds have proper management
20 and are in condition to handle the money.

21 (h) Membership on the board of an officer or director of a
22 bank does not disqualify the bank from being designated as a
23 depository.

24 (i) If the board does not receive an application before the
25 time stated in the notice, the board shall designate one or more
26 banks inside or outside the authority as a depository on terms the
27 board considers advantageous to the authority. (Acts 69th Leg.,
28 1st C.S., Ch. 3, Sec. 47.)

29 Source Law

30 Sec. 47. (a) The board shall designate one or
31 more banks inside or outside the authority to serve as
32 depository for the funds of the authority.

33 (b) All money of the authority shall be
34 deposited in the depository bank or banks except that
35 bond proceeds or proceeds of other obligations, money
36 pledged to pay those obligations, money placed in
37 special funds, and money remitted to a bank of payment
38 for the payment of the principal of and interest on

1 obligations, may be handled as provided in a trust
2 indenture or resolution.

3 (c) To the extent that funds in the depository
4 banks or a trustee bank are not invested or insured by
5 the Federal Deposit Insurance Corporation, they shall
6 be secured in the manner provided by law for the
7 security of county funds.

8 (d) Before designating a depository bank or
9 banks, the board shall issue a notice stating the time
10 and place at which the board will meet to designate the
11 depositories and inviting the banks to submit
12 applications to be designated depositories. The term
13 of service for depositories shall be prescribed by the
14 board. The notice shall be published one time in a
15 newspaper or newspapers of general circulation in the
16 authority and specified by the board, or in lieu of
17 publication, a copy of the notice may be mailed to each
18 bank inside the boundaries of the authority.

19 (e) At the time stated in the notice, the board
20 shall consider the applications and the management and
21 conditions of the banks filing them, and shall
22 designate as depositories the bank or banks that offer
23 the most favorable terms and conditions for the
24 handling of the funds of the authority and that the
25 board finds have proper management and are in
26 condition to warrant handling of authority funds.
27 Membership on the board of an officer or director of a
28 bank does not disqualify the bank from being
29 designated as depository.

30 (f) If no applications are received by the time
31 stated in the notice, the board shall designate a bank
32 or banks inside or outside the authority as depository
33 on terms and conditions the board considers
34 advantageous to the authority.

35 Revisor's Note

36 Sections 47(e) and (f), Chapter 3, Acts of the
37 69th Legislature, 1st Called Session, 1985, refer to
38 the "terms and conditions" that a bank proposes or
39 agrees to for serving as the authority's depository.
40 The revised law omits "conditions" because, in this
41 context, the meaning of "conditions" is included in
42 the meaning of "terms."

43 Revised Law

44 Sec. 8508.0207. INVESTMENT OF AUTHORITY MONEY; APPLICATION
45 OF INCOME FROM INVESTMENTS. (a) Money in the treasury that is not
46 required for the current payment of obligations of the authority or
47 for sinking funds and that the board considers available for
48 investment may be invested or reinvested by the authority in:

49 (1) direct obligations of the United States;

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

1 (3) direct obligations of or participation
2 certificates guaranteed by:

3 (A) a farm credit bank;

4 (B) the Federal National Mortgage Association;

5 (C) a federal home loan bank; or

6 (D) a bank for cooperatives;

7 (4) certificates of deposit of a bank or trust company
8 the deposits of which are fully secured by a pledge of securities of
9 any of the institutions specified by this subsection;

10 (5) other securities eligible for investment under
11 other laws; or

12 (6) a combination of the investments listed in this
13 subsection.

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

16 (c) A resolution relating to the issuance of bonds or other
17 obligations must include appropriate provisions relating to the
18 investment of money in funds established in connection with the
19 authorization of those bonds or other obligations.

20 (d) The board shall direct the application of income from
21 investments made under this section. (Acts 69th Leg., 1st C.S., Ch.
22 3, Sec. 45.)

23 Source Law

24 Sec. 45. (a) Funds in the treasury that are not
25 required for current payment of obligations of the
26 authority or for sinking funds and that the board
27 considers available for investment may be invested or
28 reinvested by the authority in:

29 (1) direct obligations of or obligations
30 the principal and interest of which are guaranteed by
31 the United States;

32 (2) direct obligations of or participation
33 certificates guaranteed by the Federal Intermediate
34 Credit Banks, Federal Land Banks, Federal National
35 Mortgage Association, Federal Home Loan Banks, and
36 Banks for Cooperatives;

37 (3) certificates of deposit of any bank or
38 trust company the deposits of which are fully secured
39 by a pledge of securities of any of the institutions
40 specified in this subsection;

41 (4) any other securities eligible for
42 investment under other laws; or

43 (5) any combination of the investments
44 listed in this subsection.

1 (b) The type and maturity of investments made
2 under this section shall be determined by the board
3 which, in the case of funds established in connection
4 with the authorization of bonds or other obligations,
5 shall include appropriate provisions relating to those
6 investments in the resolution relating to the issuance
7 of those bonds. Income and profits on such investments
8 shall be applied as directed by the board.

9 Revisor's Note

10 (1) Section 45(a), Chapter 3, Acts of the 69th
11 Legislature, 1st Called Session, 1985, refers to
12 investment or reinvestment in direct obligations of or
13 participation certificates guaranteed by the "Federal
14 Intermediate Credit Banks" and the "Federal Land
15 Banks." Under the Agricultural Credit Act of 1987
16 (Pub. L. No. 100-233), each of the 12 federal
17 intermediate credit banks was merged with a federal
18 land bank to create 12 farm credit banks. See 12
19 U.S.C. Section 2011. The revised law reflects that
20 change.

21 (2) Section 45(b), Chapter 3, Acts of the 69th
22 Legislature, 1st Called Session, 1985, provides that,
23 in the case of funds established in connection with the
24 authorization of "bonds or other obligations," the
25 resolution relating to the issuance of "those bonds"
26 shall include certain provisions. The revised law
27 refers to a resolution relating to the issuance of
28 "bonds or other obligations" for consistency of
29 terminology.

30 (3) Section 45(b), Chapter 3, Acts of the 69th
31 Legislature, 1st Called Session, 1985, refers to
32 "[i]ncome and profits" from investments. The revised
33 law omits the reference to "profits" because "profits"
34 is included in the meaning of "income."

35 Revised Law

36 Sec. 8508.0208. FISCAL YEAR. The authority's fiscal year
37 ends on August 31 of each year. (Acts 69th Leg., 1st C.S., Ch. 3,
38 Sec. 46(a).)

1 Source Law

2 Sec. 46. (a) The fiscal year of the authority
3 ends on August 31 of each year.

4 Revised Law

5 Sec. 8508.0209. AUDIT. (a) In addition to including the
6 information required by Subchapter G, Chapter 49, Water Code, the
7 audit report prepared under that subchapter must state:

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

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

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

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

15 (2) with the governor;

16 (3) with the lieutenant governor;

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

18 (5) with the attorney general; and

19 (6) with the comptroller. (Acts 69th Leg., 1st C.S.,
20 Ch. 3, Secs. 46(c), (d); New.)

21 Source Law

22 (c) The audit shall state the amount of money
23 received by the authority under this Act during the
24 preceding fiscal year, and how, to whom, and for what
25 purpose the money was spent.

26 (d) A copy of the audit report shall be filed
27 with the authority, the governor, the lieutenant
28 governor, the speaker of the house of representatives,
29 the attorney general, the commission, and the
30 comptroller of public accounts.

31 Revisor's Note

32 (1) Section 46, Chapter 3, Acts of the 69th
33 Legislature, 1st Called Session, 1985, refers to
34 various audit procedures, including requirements
35 regarding the contents of, and the filing of copies of,
36 the audit report. The revised law omits certain of
37 those procedures for the following reasons. Chapter
38 49, Water Code, which was enacted by Chapter 715, Acts

1 of the 74th Legislature, Regular Session, 1995,
2 applies to the authority by application of Sections
3 49.001 and 49.002 of that chapter. As further detailed
4 in the revisor's notes that follow, certain procedural
5 requirements of Section 46, Chapter 3, have been
6 omitted as superseded by Subchapter G, Chapter 49,
7 Water Code. Section 49.191(b), Water Code, provides
8 that in all areas of conflict Subchapter G "shall take
9 precedence over all prior statutory enactments."

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

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

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

25 (2) Section 46(b), Chapter 3, Acts of the 69th
26 Legislature, 1st Called Session, 1985, provides that,
27 on or before January 1 following the close of each
28 fiscal year, the state auditor shall audit the books
29 and accounts of the authority for the preceding fiscal
30 year. The revised law omits that provision as
31 superseded by Section 49.191, Water Code (enacted by
32 Section 2, Chapter 715, Acts of the 74th Legislature,
33 Regular Session, 1995), which requires an annual audit
34 by a certified public accountant or public accountant

1 holding a permit from the Texas State Board of Public
2 Accountancy to be completed within 120 days after the
3 close of the authority's fiscal year. The omitted law
4 reads:

5 (b) On or before January 1 following
6 the close of each fiscal year, the state
7 auditor shall audit the books and accounts
8 of the authority for the preceding fiscal
9 year.

10 (3) Section 46(e), Chapter 3, Acts of the 69th
11 Legislature, 1st Called Session, 1985, prescribes the
12 procedure for the reimbursement of the state by the
13 authority for the cost of the audit. The revised law
14 omits that provision because, to the extent it
15 requires the authority to pay the cost of the audit, it
16 duplicates Section 49.191(a), Water Code, and, to the
17 extent it requires that the payment be made to the
18 state, it is superseded by Sections 49.191(b) and (c),
19 Water Code (enacted by Section 2, Chapter 715, Acts of
20 the 74th Legislature, Regular Session, 1995), which
21 provide that the person who performs the audit shall be
22 a certified public accountant or public accountant
23 holding a permit from the Texas State Board of Public
24 Accountancy. The omitted law reads:

25 (e) After completing the audit
26 report, the state auditor shall prepare a
27 statement showing the actual cost of the
28 audit and shall certify the statement to the
29 governor for his approval. After the
30 statement is approved by the governor, it
31 shall be delivered to the authority. The
32 authority shall pay for the cost of the
33 audit by depositing the money for the audit
34 with the state treasurer, who shall place
35 the money in the general revenue fund.

36 (4) Section 46(f), Chapter 3, Acts of the 69th
37 Legislature, 1st Called Session, 1985, provides that
38 Section 46 does not prohibit the authority from
39 employing the professional services of accountants for
40 any purposes. The revised law omits that provision as
41 unnecessary because the provisions of Section 46

1 pertaining to the conducting of the audit by the state
2 auditor are omitted from the revised law for the reason
3 stated in Revisor's Notes (2) and (3) and therefore
4 there is no reason the revised law would be interpreted
5 as prohibiting the authority from employing the
6 services of an accountant for any purpose. The omitted
7 law reads:

8 (f) This section does not prohibit
9 the authority from employing the
10 professional services of accountants for
11 any purposes.

12 SUBCHAPTER F. OBLIGATIONS RELATING TO BORROWED MONEY OR GRANTS

13 Revised Law

14 Sec. 8508.0251. LOANS AND GRANTS. (a) The authority may:

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

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

20 (b) The source of money accepted by the authority is public
21 information. (Acts 69th Leg., 1st C.S., Ch. 3, Sec. 42.)

22 Source Law

23 Sec. 42. (a) The authority may borrow money and
24 accept grants and donations for its corporate purposes
25 from private sources, the United States, the state,
26 local governments, or any other person. The authority
27 may enter into any agreement in connection with the
28 loan, grant, or donation that is not in conflict with
29 the constitution and laws of this state.

30 (b) The sources of any funds accepted by the
31 authority are public information.

32 Revisor's Note

33 Section 42(a), Chapter 3, Acts of the 69th
34 Legislature, 1st Called Session, 1985, provides that
35 the authority may enter into an agreement "that is not
36 in conflict with the constitution and laws of this
37 state." The revised law omits the quoted language
38 because the absence of the language does not imply that
39 the authority is authorized to take actions

1 inconsistent with the constitution and laws of this
2 state.

3 Revised Law

4 Sec. 8508.0252. POWER TO APPLY FOR MONEY FOR ENGINEERING
5 SURVEYS, DATA COMPILATION AND COLLECTION, AND OTHER PURPOSES. (a)
6 The authority may apply to this state, the United States, or any
7 other person for money necessary to:

8 (1) secure engineering surveys and the compilation and
9 collection of data relating to regional and general conditions
10 entering into and influencing the character and extent of the
11 improvements necessary to accomplish the storage, control,
12 transportation, treatment, conservation, and equitable
13 distribution to the greatest public advantage of the storm water,
14 floodwater, and normal flow water that is stored and controlled; or

15 (2) accomplish or carry out any of the other purposes
16 of this chapter.

17 (b) The authority:

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

19 (2) may make the necessary agreements with the party
20 providing the money; and

21 (3) may appropriate the amount of the estimated
22 equitable contribution of the costs of developing essential
23 engineering data. (Acts 69th Leg., 1st C.S., Ch. 3, Sec. 43.)

24 Source Law

25 Sec. 43. The authority may apply to the state,
26 the United States, or any other person for funds
27 necessary to secure engineering surveys and the
28 compilation and collection of data relating to
29 regional and general conditions entering into and
30 influencing the character and the extent of the
31 improvements necessary to accomplish the storage,
32 control, transportation, treatment, conservation, and
33 equitable distribution to the greatest public
34 advantage of the storm water, floodwater, and normal
35 flow that is stored and controlled, and to accomplish
36 or carry out any of the other purposes of this Act. The
37 authority shall request an amount it considers
38 sufficient, and may make the necessary agreements with
39 the party providing the funds, and may appropriate the
40 amount of the estimated equitable contribution of the
41 costs of developing essential engineering data.

1 Revised Law

2 Sec. 8508.0253. POWER TO ISSUE BONDS OR OTHER OBLIGATIONS.

3 (a) For the purpose of carrying out any power provided by this
4 chapter, including the payment of the expenses of preparing the
5 master plan and the payment of engineering and other expenses, the
6 authority may issue bonds or other obligations in one general class
7 secured by a pledge of all or part of the revenue accruing to the
8 authority from any source, including the revenue received from:

- 9 (1) the sale of water or other products;
10 (2) the rendition of services;
11 (3) tolls; and
12 (4) charges.

13 (b) The obligations must be authorized by a board
14 resolution. (Acts 69th Leg., 1st C.S., Ch. 3, Secs. 48(a), (b)
15 (part).)

16 Source Law

17 Sec. 48. (a) For the purpose of carrying out
18 any power or authority provided by this Act, including
19 the expense of preparing the master plan and the
20 payment of engineering and other expenses, the
21 authority may issue its bonds or other obligations in
22 one general class secured by a pledge of all or part of
23 the revenues accruing to the authority, including
24 without limitations those revenues received from sale
25 of water or other products, rendition of service,
26 tolls, charges, and from all other sources other than
27 ad valorem taxes.

28 (b) The bonds shall be authorized by resolution
29 of the board,

30 Revisor's Note

31 (1) Section 48(a), Chapter 3, Acts of the 69th
32 Legislature, 1st Called Session, 1985, refers to
33 carrying out any "power" or "authority" provided by
34 that act. The revised law omits "authority" for the
35 reason stated in Revisor's Note (1) to Section
36 8508.0114.

37 (2) Section 48(a), Chapter 3, Acts of the 69th
38 Legislature, 1st Called Session, 1985, authorizes the
39 authority to issue "bonds or other obligations."
40 Section 48(b) of Chapter 3 provides that the "bonds"

1 must be authorized by a board resolution. The revised
2 law provides that the "obligations" must be authorized
3 by a board resolution for consistency of terminology.

4 (3) Section 48(a), Chapter 3, Acts of the 69th
5 Legislature, 1st Called Session, 1985, authorizes the
6 authority to issue bonds or other obligations that are
7 secured by a pledge of the revenue accruing to the
8 authority from any source "other than ad valorem
9 taxes." The revised law omits the quoted language as
10 unnecessary because Section 1(c), Chapter 3, Acts of
11 the 69th Legislature, 1st Called Session, 1985,
12 revised in this chapter as Section 8508.0205,
13 prohibits the authority from imposing a tax or
14 creating debt payable from taxes.

15 (4) Section 48(d), Chapter 3, Acts of the 69th
16 Legislature, 1st Called Session, 1985, provides that
17 obligations may be issued in "more than one series, and
18 from time to time, as required for carrying out the
19 purposes of this Act." The revised law omits "more
20 than one series" because it duplicates a provision of
21 Section 1201.022, Government Code. Throughout this
22 chapter, the revised law omits law that is superseded
23 by Chapter 1201, Government Code, or that duplicates
24 law contained in that chapter. Chapter 1201,
25 Government Code, applies to authority obligations
26 under Sections 1201.002 and 1201.003, Government Code.
27 The revised law omits "from time to time" because the
28 power to issue obligations implies the power to do so
29 at any time. The revised law omits "as required for
30 carrying out the purposes of this Act" because Section
31 48(a), Chapter 3, Acts of the 69th Legislature, 1st
32 Called Session, 1985, revised in this section,
33 authorizes the authority to issue obligations for the
34 purposes of the act. The omitted law reads:

1 (d) Obligations may be issued in more
2 than one series, and from time to time, as
3 required for carrying out the purposes of
4 this Act. . . .

5 Revised Law

6 Sec. 8508.0254. REFUNDING BONDS. (a) The authority may
7 issue refunding bonds to refund outstanding obligations issued
8 under this chapter.

9 (b) Refunding bonds may be issued in the manner provided by
10 Chapter 1207, Government Code. (Acts 69th Leg., 1st C.S., Ch. 3,
11 Sec. 49 (part).)

12 Source Law

13 Sec. 49. The authority may issue refunding
14 bonds to refund outstanding obligations issued under
15 this Act. Refunding bonds may be issued by the
16 authority as provided by Chapter 503, Acts of the 54th
17 Legislature, Regular Session, 1955 (Article 717k,
18 Vernon's Texas Civil Statutes), and Chapter 784, Acts
19 of the 61st Legislature, Regular Session, 1969
20 (Article 717k-3, Vernon's Texas Civil Statutes). . . .

21 Revisor's Note

22 (1) Section 49, Chapter 3, Acts of the 69th
23 Legislature, 1st Called Session, 1985, refers to
24 Chapter 503, Acts of the 54th Legislature, Regular
25 Session, 1955 (Article 717k, Vernon's Texas Civil
26 Statutes), and Chapter 784, Acts of the 61st
27 Legislature, Regular Session, 1969 (Article 717k-3,
28 Vernon's Texas Civil Statutes). Articles 717k and
29 717k-3 were revised in 1999 as Chapter 1207,
30 Government Code, and the revised law is drafted
31 accordingly.

32 (2) Section 49, Chapter 3, Acts of the 69th
33 Legislature, 1st Called Session, 1985, provides that
34 authority obligations may be refunded in the manner
35 provided by any other applicable law. The revised law
36 omits the provision because any other law that permits
37 the refunding of authority obligations applies by its
38 own terms, and it is unnecessary to include an express
39 statement of the applicability of that law in this

1 chapter. The omitted law reads:

2 Sec. 49. . . . Obligations issued at
3 any time by the authority also may be
4 refunded in the manner provided by any other
5 applicable law.

6 Revised Law

7 Sec. 8508.0255. FORM OF OBLIGATIONS. Authority obligations
8 must:

- 9 (1) be in the form prescribed by the board;
10 (2) be issued in the authority's name;
11 (3) be signed by the presiding officer or a vice
12 president;
13 (4) be attested by the secretary; and
14 (5) bear the authority seal. (Acts 69th Leg., 1st
15 C.S., Ch. 3, Secs. 48(b) (part), (c) (part).)

16 Source Law

17 (b) The bonds shall be . . . issued in the name
18 of the authority, signed by the president or any
19 vice-president, and attested by the secretary. The
20 bonds shall bear the seal of the authority. . . .

21 (c) The obligations shall be in the form
22 prescribed by the board,

23 Revisor's Note

24 (1) Sections 48(b) and (c), Chapter 3, Acts of
25 the 69th Legislature, 1st Called Session, 1985, refer
26 variously to "bonds" and "obligations." The revised
27 law refers to "obligations" for consistency of
28 terminology.

29 (2) Section 48(b), Chapter 3, Acts of the 69th
30 Legislature, 1st Called Session, 1985, refers to the
31 board's "president." The revised law substitutes
32 "presiding officer" for "president" for the reason
33 stated in Revisor's Note (1) to Section 8508.0127.

34 (3) Section 48(b), Chapter 3, Acts of the 69th
35 Legislature, 1st Called Session, 1985, authorizes
36 facsimile "printed or lithographed" signatures and
37 seals. The revised law omits those provisions as
38 unnecessary because the authorization for the use of

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

6 (b) . . . If authorized by the
7 board, the signatures of the president or
8 any vice-president, and the secretary or of
9 both may be printed or lithographed on the
10 obligations, and the seal of the authority
11 may be impressed on the obligations or may
12 be printed or lithographed on the
13 obligations.

14 Revised Law

15 Sec. 8508.0256. MATURITY. Authority obligations must
16 mature not later than 50 years after the date of their issuance.
17 (Acts 69th Leg., 1st C.S., Ch. 3, Sec. 48(c) (part).)

18 Source Law

19 (c) The obligations . . . shall mature serially
20 or otherwise and not to exceed 50 years from their
21 date,

22 Revisor's Note

23 Section 48(c), Chapter 3, Acts of the 69th
24 Legislature, 1st Called Session, 1985, provides that
25 authority obligations shall mature "serially or
26 otherwise." The revised law omits the quoted language
27 because it duplicates Section 1201.022(a)(1),
28 Government Code.

29 Revised Law

30 Sec. 8508.0257. TRUST INDENTURE. Authority obligations may
31 be further secured by a trust indenture with a corporate trustee.
32 (Acts 69th Leg., 1st C.S., Ch. 3, Sec. 48(c) (part).)

33 Source Law

34 (c) . . . The obligations may be further
35 secured by a trust indenture with a corporate trustee.

36 Revised Law

37 Sec. 8508.0258. ADDITIONAL OBLIGATIONS. A pledge of
38 revenue may reserve the right, under specified conditions, to issue
39 additional obligations that will be on a parity with or subordinate

1 to the obligations then being issued. (Acts 69th Leg., 1st C.S.,
2 Ch. 3, Sec. 48(d) (part).)

3 Source Law

4 (d) . . . A pledge of revenue may reserve the
5 right, under specified conditions, to issue additional
6 obligations that will be on a parity with or
7 subordinate to the obligations then being issued.

8 Revised Law

9 Sec. 8508.0259. ADDITIONAL PROVISIONS IN RESOLUTION
10 AUTHORIZING OBLIGATIONS OR TRUST INDENTURE. (a) The resolution
11 authorizing obligations or the trust indenture further securing
12 obligations may specify additional provisions that constitute a
13 contract between the authority and the owners of those obligations.

14 (b) The board may provide for the additional provisions,
15 including a corporate trustee or receiver provided by the authority
16 to take possession of authority facilities in the event of the
17 authority's default in fulfilling the covenants. (Acts 69th Leg.,
18 1st C.S., Ch. 3, Sec. 48(f).)

19 Source Law

20 (f) The resolution authorizing the obligations
21 or the trust indenture further securing the
22 obligations may specify additional provisions that
23 constitute a contract between the authority and the
24 owners of those obligations. The board may provide for
25 the additional provisions, including a corporate
26 trustee or receiver provided by the authority to take
27 possession of facilities of the authority in the event
28 of default on the part of the authority in fulfilling
29 the covenants.

30 Revisor's Note
31 (End of Subchapter)

32 (1) Section 48(c), Chapter 3, Acts of the 69th
33 Legislature, 1st Called Session, 1985, provides that
34 authority obligations may be in any denomination. The
35 revised law omits that provision because it duplicates
36 Section 1201.021(1), Government Code. The omitted law
37 reads:

38 (c) [The obligations] . . . shall be
39 in any denomination or denominations,
40

41 (2) Section 48(c), Chapter 3, Acts of the 69th

1 Legislature, 1st Called Session, 1985, provides that
2 authority obligations shall bear interest according to
3 law. The revised law omits that provision as
4 unnecessary because any law that governs the bearing
5 of interest by an authority obligation would
6 necessarily apply on its own terms. The omitted law
7 reads:

8 (c) [The obligations] . . . shall
9 bear interest according to law, and

10 (3) Section 48(c), Chapter 3, Acts of the 69th
11 Legislature, 1st Called Session, 1985, provides that
12 authority obligations may be sold at a price and under
13 terms determined by the board to be the most
14 advantageous reasonably obtainable. The revised law
15 omits that provision because it duplicates or is
16 superseded by provisions of general law. Section
17 1204.006, Government Code, provides that an issuer may
18 sell public securities at any price. Section 1204.006
19 applies to authority bonds under Sections 1204.001 and
20 1204.002, Government Code. Section 1201.022,
21 Government Code, as amended in 2001, provides that an
22 issuer may sell public securities "under the terms
23 determined by the governing body of the issuer to be in
24 the issuer's best interests." The omitted law reads:

25 (c) [The obligations] . . . may be
26 sold at a price and under terms determined
27 by the board to be the most advantageous
28 reasonably obtainable. . . .

29 (4) Section 48(c), Chapter 3, Acts of the 69th
30 Legislature, 1st Called Session, 1985, provides that
31 the board may make authority bonds callable before
32 maturity at the times and prices prescribed in the
33 bonds. The revised law omits that provision because it
34 duplicates Sections 1201.021 and 1201.022, Government
35 Code, which provide that a public security may be
36 issued as redeemable before maturity and be payable in

1 specified amounts and at specified times. The omitted
2 law reads:

3 (c) . . . The board may make the
4 bonds callable before maturity at the times
5 and prices prescribed in the bonds, and
6

7 (5) Section 48(c), Chapter 3, Acts of the 69th
8 Legislature, 1st Called Session, 1985, provides that
9 authority bonds may be made registrable as to
10 principal or as to principal and interest. The revised
11 law omits that provision because it duplicates in
12 substance Section 1201.024(a)(3), Government Code.
13 The omitted law reads:

14 (c) . . . the bonds may be made
15 registrable as to principal or as to both
16 principal and interest. . . .

17 (6) Section 48(e), Chapter 3, Acts of the 69th
18 Legislature, 1st Called Session, 1985, provides that
19 Chapter 656, Acts of the 68th Legislature, Regular
20 Session, 1983 (Article 717q, Vernon's Texas Civil
21 Statutes), applies to the authority, and that the
22 authority is an "issuer" for the purpose of that
23 chapter. Article 717q was revised in 1999 as Chapter
24 1371, Government Code. By application of Section
25 1371.001, Government Code, Chapter 1371 applies to the
26 authority and the authority is an "issuer" for
27 purposes of that chapter. It is therefore unnecessary
28 to include an express statement of the applicability
29 of Chapter 1371 in this subchapter. The omitted law
30 reads:

31 (e) The authority is an "issuer" for
32 the purpose of Chapter 656, Acts of the 68th
33 legislature, Regular Session, 1983 (Article
34 717q, Vernon's Texas Civil Statutes), and
35 that law applies to the authority.

36 (7) Section 50, Chapter 3, Acts of the 69th
37 Legislature, 1st Called Session, 1985, requires the
38 authority to deliver bonds it issues to the attorney

1 general for examination and approval. That section
2 also provides that if obligations are to be issued to
3 finance water-using facilities, before the attorney
4 general approves the obligations the attorney general
5 must be furnished a resolution from the Texas
6 Commission on Environmental Quality certifying that
7 the authority has the necessary water rights
8 authorizing it to impound and appropriate the water to
9 be used by the project. In addition, that section
10 requires the attorney general to approve authority
11 bonds if the bonds were authorized under law. Finally,
12 that section provides that after approval the
13 obligations must be registered with the comptroller
14 and that after approval and registration the bonds are
15 incontestable. The revised law omits those provisions
16 as superseded by Chapter 1202, Government Code
17 (enacted as Article 3, Chapter 53, Acts of the 70th
18 Legislature, 2nd Called Session, 1987). Section
19 1202.003, Government Code, provides for approval of
20 bonds by the attorney general and requires the
21 attorney general to submit the approved bonds to the
22 comptroller for registration. Section 1202.005,
23 Government Code, requires registration of the bonds by
24 the comptroller. Section 1202.006, Government Code,
25 provides that after approval and registration the
26 bonds are incontestable and binding obligations.
27 Chapter 1202, Government Code, applies to authority
28 bonds by application of Sections 1202.001 and
29 1202.003(c), Government Code. The omitted law reads:

30 Sec. 50. (a) After any bonds,
31 including refunding bonds, are authorized
32 by the authority, the bonds and the record
33 relating to their issuance shall be
34 submitted to the attorney general for his
35 examination as to the validity of those
36 bonds. If obligations are to be issued to
37 finance in whole or in part water-using
38 facilities, before giving his approval the

1 attorney general shall be furnished a
2 resolution from the commission certifying
3 that the authority has the necessary water
4 rights authorizing it to impound and
5 appropriate the water to be used by the
6 project. . . .

7 (b) If the attorney general finds
8 that the bonds have been authorized and
9 . . . as provided by the constitution and
10 laws of this state, he shall approve the
11 obligations and . . . the obligations then
12 shall be registered by the comptroller of
13 public accounts.

14 (c) After approval and registration,
15 the bonds and . . . are valid and binding
16 and are incontestable for any cause.

17 (8) Section 50, Chapter 3, Acts of the 69th
18 Legislature, 1st Called Session, 1985, details various
19 procedures regarding approval of bond contracts and
20 proceedings by the attorney general. The revised law
21 omits the portion of Section 50 regarding the validity
22 and incontestability of a contract the proceeds of
23 which are pledged to the payment of a bond as impliedly
24 repealed by Section 1202.006, Government Code (enacted
25 as Section 3.002(d), Chapter 53, Acts of the 70th
26 Legislature, 2nd Called Session, 1987). Section
27 1202.006, Government Code, provides that after
28 approval and registration of the bond, the bond and
29 contract are not contestable for any reason. Section
30 1202.006 applies to authority bonds by application of
31 Sections 1202.001 and 1202.003(c), Government Code.
32 The omitted law reads:

33 Sec. 50. (a) . . . If the
34 obligations recite that they are secured by
35 a pledge of the proceeds of a contract made
36 between the authority and any public
37 agency, a copy of the contract and the
38 proceedings of the public agency
39 authorizing the contract also shall be
40 submitted to the attorney general.

41 (b) [If the attorney general finds
42 that] . . . the contracts have been made [as
43 provided by the constitution and laws of
44 this state, he shall approve] . . . the
45 contracts and

46 (c) [After approval and
47 registration, the bonds and] contracts [are
48 valid and . . . are incontestable for any
49 cause.]

50 (9) Section 51, Chapter 3, Acts of the 69th

1 Legislature, 1st Called Session, 1985, lists the
2 entities for which authority bonds are legal
3 investments and provides that authority bonds may
4 secure deposits of public funds of the state or
5 political subdivisions. The revised law omits the
6 provision relating to the eligibility of authority
7 bonds to be considered as investments for various
8 entities because it duplicates, in substance, Section
9 49.186(a), Water Code. While Section 51 lists
10 "guardians" and Section 49.186(a), Water Code, does
11 not, Section 49.186(a) includes "fiduciaries," and a
12 guardian is a fiduciary. The revised law omits the
13 provision relating to the use of authority bonds as
14 security for deposits of state funds as impliedly
15 repealed by Section 404.0221, Government Code (enacted
16 in 1995), which lists eligible collateral for deposits
17 of state funds by the comptroller, and by Section
18 404.031, Government Code (enacted in 1985 as Section
19 3.001, Article 4393-1, Vernon's Texas Civil Statutes,
20 and last amended in 2009), which provides for the
21 valuation of that collateral. As to securing deposits
22 of other funds, the provision is impliedly repealed by
23 Chapter 2257, Government Code (enacted in 1989 as
24 Article 2529d, Vernon's Texas Civil Statutes), which
25 governs eligible collateral for deposits of funds of
26 other public agencies, including political
27 subdivisions, and permits those deposits to be secured
28 by obligations issued by conservation and reclamation
29 districts. The omitted law reads:

30 Sec. 51. (a) Authority bonds are
31 legal and authorized investments for:
32 (1) banks;
33 (2) savings banks;
34 (3) trust companies;
35 (4) savings and loan
36 associations;
37 (5) insurance companies;
38 (6) fiduciaries;

1 (7) trustees;
2 (8) guardians; and
3 (9) sinking funds of cities,
4 counties, school districts, and other
5 political subdivisions of the state and
6 other public funds of the state and its
7 agencies, including the permanent school
8 fund.

9 (b) Authority bonds are eligible to
10 secure deposits of public funds of the state
11 and cities, counties, school districts, and
12 other political subdivisions of the state.
13 The bonds are lawful and sufficient
14 security for deposits to the extent of their
15 value.

16 Revisor's Note
17 (End of Chapter)

18 Section 17, Chapter 276, Acts of the 85th
19 Legislature, Regular Session, 2017, recites
20 legislative findings regarding procedural
21 requirements for legislation affecting the authority
22 under the constitution and other laws and rules,
23 including proper legal notice and the filing of
24 recommendations. The revised law omits those
25 provisions as executed. The omitted law reads:

26 Sec. 17. (a) The legal notice of the
27 intention to introduce this Act, setting
28 forth the general substance of this Act, has
29 been published as provided by law, and the
30 notice and a copy of this Act have been
31 furnished to all persons, agencies,
32 officials, or entities to which they are
33 required to be furnished under Section 59,
34 Article XVI, Texas Constitution, and
35 Chapter 313, Government Code.

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

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

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

52 CHAPTER 8509. PALO DURO WATER DISTRICT

53 SUBCHAPTER A. GENERAL PROVISIONS

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12 CHAPTER 8509. PALO DURO WATER DISTRICT

13 SUBCHAPTER A. GENERAL PROVISIONS

14 Revised Law

15 Sec. 8509.0001. DEFINITIONS. In this chapter:

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

17 (2) "Commission" means the Texas Commission on
18 Environmental Quality.

19 (3) "Director" means a board member.

20 (4) "District" means the Palo Duro Water District.

21 (5) "Member entity" means a county or municipality
22 that is a member of the district. (Acts 63rd Leg., R.S., Ch. 438,
23 Sec. 1B.)

24 Source Law

25 Sec. 1B. In this Act:

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

28 (2) "Commission" means the Texas
29 Commission on Environmental Quality.

30 (3) "Director" means a member of the
31 board.

32 (4) "District" means the Palo Duro Water
33 District.

34 (5) "Member entity" means a county or
35 municipality that is a member of the district.

36 Revised Law

37 Sec. 8509.0002. NATURE OF DISTRICT. The district is a
38 conservation and reclamation district created under Section 59,
39 Article XVI, Texas Constitution, and a political subdivision of

1 this state. (Acts 63rd Leg., R.S., Ch. 438, Sec. 1.)

2 Source Law

3 Sec. 1. By virtue of Section 59, Article XVI of
4 the Constitution of the State of Texas, there is hereby
5 created a conservation and reclamation district to be
6 known as "Palo Duro Water District," which shall be a
7 governmental agency, a body politic and corporate, and
8 a political subdivision of this state.

9 Revisor's Note

10 Section 1, Chapter 438, Acts of the 63rd
11 Legislature, Regular Session, 1973, refers to the
12 district as "a conservation and reclamation district"
13 and as "a governmental agency" and "a body politic and
14 corporate." The revised law omits the references to
15 "governmental agency" and "body politic and corporate"
16 because they duplicate a portion of Section 59(b),
17 Article XVI, Texas Constitution, which provides that a
18 conservation and reclamation district is a
19 governmental agency and a body politic and corporate.

20 Revised Law

21 Sec. 8509.0003. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.

22 (a) The legislature finds that:

23 (1) all land included in the district will benefit
24 from the improvements to be acquired and constructed by the
25 district; and

26 (2) the district is created to serve a public use and
27 benefit.

28 (b) The accomplishment of the purposes stated in this
29 chapter is for the benefit of the people of this state and for the
30 improvement of their property and industries. The district, in
31 carrying out the purposes of this chapter, will be performing an
32 essential public function under the Texas Constitution. (Acts 63rd
33 Leg., R.S., Ch. 438, Secs. 2 (part), 26 (part).)

34 Source Law

35 Sec. 2. . . . It is hereby found and determined
36 that all of the land thus included in the district will
37 be benefited by the improvements to be acquired and
38 constructed by the district, and that the district is

1 created to serve a public use and benefit.

2 Sec. 26. The accomplishment of the purposes
3 stated in this Act is for the benefit of the people of
4 this state and for the improvement of their properties
5 and industries, and the district, in carrying out the
6 purposes of this Act will be performing an essential
7 public function under the Constitution. . . .

8 Revised Law

9 Sec. 8509.0004. DISTRICT TERRITORY. Unless modified under
10 Subchapter J, Chapter 49, Water Code, this chapter or its
11 predecessor statute, Chapter 438, Acts of the 63rd Legislature,
12 Regular Session, 1973, or other law, the district's territory
13 comprises all of the territory contained in:

14 (1) Hansford and Moore Counties; and

15 (2) the City of Stinnett. (Acts 63rd Leg., R.S.,
16 Ch. 438, Sec. 2 (part); New.)

17 Source Law

18 Sec. 2. The district hereby created and
19 established shall comprise all of the territory
20 contained within the Counties of Hansford and Moore
21 and the City of Stinnett. . . .

22 Revisor's Note

23 The revision of the law governing the district
24 revises the statutory language describing the
25 district's territory. Because the district's
26 boundaries are subject to change, that description may
27 not be accurate on the effective date of the revision
28 or at the time of a later reading. For the reader's
29 convenience, the revised law adds references to the
30 statutory authority to change the district's territory
31 under Subchapter J, Chapter 49, Water Code, applicable
32 to the district under Sections 49.001 and 49.002 of
33 that chapter, this chapter, and former Chapter 438,
34 Acts of the 63rd Legislature, Regular Session, 1973.
35 The revised law also includes a reference to the
36 general authority of the legislature to enact a law to
37 change the district's territory.

1 Revised Law

2 Sec. 8509.0005. CORRECTION OF INVALID PROCEDURES. If a
3 court holds that any procedure under this chapter violates the
4 Texas Constitution or the United States Constitution, the board by
5 resolution may provide an alternative procedure that conforms with
6 the constitution. (Acts 63rd Leg., R.S., Ch. 438, Sec. 31 (part).)

7 Source Law

8 Sec. 31. . . . [Federal or State Constitutions]
9 Where any procedure hereunder may be held by
10 any court to be violative of either of such
11 Constitutions the Board shall have the power by
12 resolution to provide an alternative procedure
13 conformable to such Constitutions. . . .

14 Revisor's Note

15 Section 31, Chapter 438, Acts of the 63rd
16 Legislature, Regular Session, 1973, provides that the
17 act may not be construed to violate the federal or
18 state constitution and requires that action under the
19 act comply with the constitutions. The revised law
20 omits the reference to the federal constitution
21 because under the Supremacy Clause of the United
22 States Constitution (Clause 2, Article VI), federal
23 law always takes precedence over a state statute. The
24 revised law omits the reference to the state
25 constitution because the state legislature cannot
26 modify constitutional provisions by statute. The
27 omitted law reads:

28 Sec. 31. Nothing in the Act shall be
29 construed to violate any provision of the
30 Federal or State Constitutions and all acts
31 done under this Act shall be done in such
32 manner as will conform thereto whether
33 herein expressly provided or not. . . .

34 SUBCHAPTER B. PROCEDURES FOR ANNEXATION, WITHDRAWAL, OR
35 DISSOLUTION

36 Revised Law

37 Sec. 8509.0051. ANNEXATION OF TERRITORY. (a) Territory,
38 whether or not contiguous to the district, may be annexed to the
39 district in the manner provided by this section.

1 (b) The board may annex territory or a municipality under
2 this section only if a petition requesting annexation is filed with
3 the board. The petition must:

4 (1) describe the territory to be annexed by metes and
5 bounds, or otherwise, except that if the territory is the same as
6 that contained in the boundaries of a municipality, the petition is
7 sufficient if it states that the territory to be annexed is the
8 territory contained in the municipal boundaries; and

9 (2) be signed by 50 registered voters of the territory
10 or municipality to be annexed, or a majority of the registered
11 voters of that territory or municipality, whichever is fewer.

12 (c) If the board determines that the petition complies with
13 Subsection (b), that the annexation would be in the best interest of
14 the territory or municipality and the district, and that the
15 district will be able to supply water to the territory or
16 municipality, the board shall:

17 (1) adopt a resolution stating the conditions, if any,
18 under which the territory or municipality may be annexed to the
19 district; and

20 (2) set a time and place to hold a hearing on the
21 question of whether the territory or municipality to be annexed
22 will benefit from:

23 (A) the improvements, works, or facilities owned
24 or operated or contemplated to be owned or operated by the district;
25 or

26 (B) the other functions of the district.

27 (d) At least 10 days before the date of the hearing, notice
28 of the adoption of the resolution must be published one time in a
29 newspaper of general circulation in the territory or municipality
30 proposed to be annexed. The notice must:

31 (1) state the time and place of the hearing; and

32 (2) describe the territory in the same manner in which
33 Subsection (b) requires or permits the petition to describe the
34 territory.

1 (e) The hearing may proceed in the order and under the rules
2 prescribed by the board and may be recessed.

3 (f) Any interested person may appear at the hearing and
4 offer evidence for or against the annexation.

5 (g) If, at the conclusion of the hearing, the board finds
6 that the property in the territory or municipality will benefit
7 from the district's present or contemplated improvements, works, or
8 facilities, the board shall adopt a resolution making a finding of
9 the benefit and calling an election in the territory or
10 municipality to be annexed.

11 (h) The resolution must state:

12 (1) the date of the election;

13 (2) each place where the election will be held; and

14 (3) the proposition to be voted on.

15 (i) At least 10 days before the date set for the election,
16 notice of the election must be given by publishing a substantial
17 copy of the resolution calling the election one time in a newspaper
18 of general circulation in the territory proposed to be annexed.

19 (j) If a majority of the votes cast at the election are in
20 favor of annexation, the board by resolution shall annex the
21 territory to the district.

22 (k) An annexation under this section is incontestable
23 except in the manner and within the time for contesting elections
24 under the Election Code.

25 (l) In calling an election on the proposition for annexation
26 of the territory or municipality, the board may include, as part of
27 the same proposition or as a separate proposition, a proposition
28 for:

29 (1) the territory to assume its part of the district's
30 tax-supported bonds then outstanding and those bonds previously
31 voted but not yet sold; and

32 (2) an ad valorem tax to be imposed on taxable property
33 in the territory along with the tax in the rest of the district for
34 payment of the bonds and maintenance taxes to be imposed as

1 permitted by Section 8509.0252.

2 (m) If an election under Subsection (1) fails, the annexed
3 territory or municipality shall be excluded from the district.
4 (Acts 63rd Leg., R.S., Ch. 438, Secs. 13(d)(1), (2) (part), (3)
5 (part).)

6 Source Law

7 (d) Territory may be annexed to the district,
8 whether or not contiguous to the district, in the
9 following manner:

10 (1) A petition praying for such annexation
11 signed by fifty (50) or a majority, whichever number is
12 smaller, of the resident, qualified voters of the
13 territory or of duly incorporated cities or towns
14 sought to be annexed shall be filed with the board.
15 The petition shall describe the territory to be
16 annexed by metes and bounds, or otherwise, unless such
17 territory is the same as that contained within the
18 boundaries of such city or town, in which event it
19 shall be sufficient to state that the territory to be
20 annexed is that which is contained within the
21 boundaries of such city or town.

22 (2) If the board finds that the petition
23 complies with and is signed by the number of qualified
24 persons required by Subdivision (1) of this
25 subsection, that the annexation would be to the best
26 interest of the territory, city or town, and the
27 district, and that the district will be able to supply
28 water, or cause water to be supplied to the territory,
29 city, or town, it shall adopt a resolution stating the
30 conditions, if any, under which such territory, city,
31 or town may be annexed to the district, and shall fix a
32 time and place when and where a hearing shall be held
33 by the board on the question of whether the territory,
34 city, or town sought to be annexed will be benefited by
35 the improvements, works, and facilities then owned or
36 operated or contemplated to be owned or operated by the
37 district or by the other functions of the district.
38 Notice of the adoption of such resolution stating the
39 time and place of such hearing shall be published one
40 (1) time in a newspaper of general circulation in the
41 territory, city, or town sought to be annexed at least
42 ten (10) days prior to the date of such hearing. The
43 notice shall describe the territory in the same manner
44 in which it is required or permitted by this Act to be
45 described in the petition. All persons interested may
46 appear at such hearing and offer evidence for or
47 against the proposed annexation. Such hearing may
48 proceed in such order and under such rules as may be
49 prescribed by said board, and the hearing may be
50 recessed from time to time. If, at the conclusion of
51 the hearing, the board finds that the property in such
52 territory, city, or town will be benefited by the
53 present or contemplated improvements, works, or
54 facilities of the district, the board shall adopt a
55 resolution making a finding of such benefit and
56 calling an election in the territory, city, or town
57 proposed to be annexed stating therein the date of the
58 election, the place or places of holding the same, the
59 proposition to be voted on, and

60 Notice of such election shall be given by
61 publishing a substantial copy of the resolution

1 calling the election one (1) time in a newspaper of
2 general circulation in the territory sought to be
3 annexed to the district at least ten (10) days before
4 the date set for the election. . . . If . . . a
5 majority of the votes cast are in favor of annexation,
6 the board shall by resolution annex said territory to
7 the district, and such annexation shall thereafter be
8 incontestable except in the manner and within the time
9 for contesting the elections under the Texas Election
10 Code, as amended.

11 (3) The board, in calling an election on
12 the proposition for annexation of territory, city, or
13 town, may include as a part of the same proposition or
14 a separate proposition for the assumption of its part
15 of the tax-supported bonds of the district then
16 outstanding and those theretofore voted but not yet
17 sold, and for the levy of an ad valorem tax on taxable
18 property in said territory along with the tax in the
19 rest of the district for the payment thereof and the
20 levying of maintenance taxes permitted by Section 27
21 of this Act, If such election fails, the
22 annexed territory, city, or town shall be excluded
23 from the district.

24 Revisor's Note

25 (1) Section 13(d)(1), Chapter 438, Acts of the
26 63rd Legislature, Regular Session, 1973, refers to
27 "resident, qualified voters" of the territory or
28 municipality proposed to be annexed. The revised law
29 substitutes "registered voters" for the quoted
30 language because in the context of eligibility to sign
31 a petition, Section 277.0021, Election Code, provides
32 that "qualified voter" means "registered voter."

33 (2) Section 13(d), Chapter 438, Acts of the 63rd
34 Legislature, Regular Session, 1973, refers to a "city"
35 or "town" and to "duly incorporated cities or towns."
36 Throughout this chapter, the revised law substitutes
37 "municipality" for "city" or "town" because the terms
38 are synonymous and "municipality" is the term used in
39 the Local Government Code. The revised law omits "duly
40 incorporated" because, under the Local Government
41 Code, all municipalities must be incorporated.

42 (3) Section 13(d)(2), Chapter 438, Acts of the
43 63rd Legislature, Regular Session, 1973, refers to a
44 finding by the board that the district will be able to
45 "supply water, or cause water to be supplied." The

1 revised law omits the reference to "cause water to be
2 supplied" because the ability to "supply water"
3 implies the ability to "cause water to be supplied."

4 (4) Section 13(d)(2), Chapter 438, Acts of the
5 63rd Legislature, Regular Session, 1973, provides that
6 the board shall "fix a time and place" for a hearing on
7 the question of annexation. Throughout this chapter,
8 in this and similar contexts, the revised law
9 substitutes "set" for "fix" because the terms are
10 synonymous in these contexts and "set" is more
11 commonly used.

12 (5) Section 13(d)(2), Chapter 438, Acts of the
13 63rd Legislature, Regular Session, 1973, requires
14 notice by publication to describe the territory to be
15 annexed in the same manner in which it is "required or
16 permitted by this Act" to be described in the petition.
17 The provisions for describing the territory in the
18 petition are revised in Subsection (b) of this
19 section. The revised law is drafted accordingly.

20 (6) Section 13(d)(2), Chapter 438, Acts of the
21 63rd Legislature, Regular Session, 1973, provides that
22 the hearing conducted by the board may be recessed
23 "from time to time." Throughout this chapter, the
24 revised law omits "from time to time" because the power
25 to take an action includes the power to act "from time
26 to time."

27 (7) Section 13(d)(2), Chapter 438, Acts of the
28 63rd Legislature, Regular Session, 1973, requires the
29 board to adopt a resolution regarding the appointment
30 of judges and clerks for each voting place. The
31 revised law omits the provision because the 1985
32 enactment of the Election Code, applicable to the
33 district under Section 1.002, Election Code, provides
34 for the selection of election judges and clerks under

1 Chapter 32 of that code, and the provision duplicates
2 or is superseded by that chapter. The omitted law
3 reads:

4 (2) . . . [the board shall
5 adopt a resolution] . . . appointing a
6 presiding judge for each voting place who
7 shall appoint the necessary assistant
8 judges and clerks to assist in holding the
9 election.

10 . . .

11 (8) Section 13(d)(2), Chapter 438, Acts of the
12 63rd Legislature, Regular Session, 1973, restricts
13 certain voting to "constitutionally qualified
14 electors who reside in the territory, city, or town
15 sought to be annexed." Similarly, Section 13(d)(3) of
16 that chapter restricts certain voting to
17 "constitutionally qualified electors." Throughout
18 this chapter, the revised law omits such provisions as
19 unnecessary because Chapter 11, Election Code, governs
20 eligibility to vote in an election in this state and
21 allows only "qualified voters" who are residents of
22 the territory covered by the election to vote in an
23 election. In addition, as a general principle of law,
24 all state statutes, including the Election Code, must
25 be consistent with the constitution. The omitted law
26 reads:

27 (2) . . . Only constitutionally
28 qualified electors who reside in the
29 territory, city, or town sought to be
30 annexed shall be qualified to vote in said
31 election. . . .

32 (3) . . . in which event the
33 voting shall be restricted to
34 constitutionally qualified electors. . . .

35 (9) Section 13(d)(2), Chapter 438, Acts of the
36 63rd Legislature, Regular Session, 1973, states that
37 the board shall receive and canvass the election
38 returns and adopt a resolution declaring the results.
39 The revised law omits that provision as superseded by
40 the 1985 enactment of the Election Code, applicable to

1 the district under Section 1.002 of that code. Chapter
2 67, Election Code, provides for the canvass of
3 elections. The omitted law reads:

4 (2) . . . Returns of the result
5 of said election shall be made to the board.
6 The board shall canvass the returns of the
7 election and adopt a resolution declaring
8 the results thereof. [If] such resolution
9 shows that

10 (10) Section 13(d)(2), Chapter 438, Acts of the
11 63rd Legislature, Regular Session, 1973, refers to
12 "the Texas Election Code, as amended." Throughout
13 this chapter, the revised law omits the references to
14 "as amended" because under Section 311.027, Government
15 Code (Code Construction Act), a reference to a statute
16 applies to all reenactments, revisions, or amendments
17 of that statute unless expressly provided otherwise.

18 (11) Section 13(d)(3), Chapter 438, Acts of the
19 63rd Legislature, Regular Session, 1973, refers to the
20 option of including a ballot proposition for the
21 "levy" of an ad valorem tax on taxable property in the
22 territory to be annexed and the "levying" of
23 maintenance taxes. Throughout this chapter, the
24 revised law substitutes "impose" for "levy," "levy,
25 assess and collect," "levy or collect," or "levy and
26 cause to be assessed and collected" because "impose"
27 is the term generally used in Title 1, Tax Code, and
28 includes the assessment, levying, and collection of a
29 tax.

30 Revised Law

31 Sec. 8509.0052. WITHDRAWAL FROM OR DISSOLUTION OF DISTRICT.

32 (a) A county or municipality may withdraw from the district or the
33 district may dissolve according to this section.

34 (b) To withdraw from the district or to dissolve the
35 district, the governing body of a member entity must issue an order
36 or adopt a resolution declaring the intent to withdraw from or to

1 dissolve the district. The order or resolution must state:

2 (1) the intention to withdraw from the district or to
3 call for the dissolution of the district; and

4 (2) the reasons supporting the withdrawal or
5 dissolution.

6 (c) Not later than the 30th day after the date the district
7 receives an order issued or resolution adopted under Subsection
8 (b), the district shall hold a public hearing on the matter
9 described by the order or resolution.

10 (d) For a proposed withdrawal of a county or municipality
11 from the district, the member entities must reach a financial
12 agreement that provides for sufficient revenue for maintaining the
13 Palo Duro Reservoir and the dam that impounds the water in the
14 reservoir.

15 (e) For a proposed dissolution of the district, the member
16 entities must reach a financial agreement that provides for the
17 transfer of:

18 (1) the ownership rights of the dam that impounds the
19 water in the Palo Duro Reservoir to an entity that assumes
20 responsibility for the maintenance of the dam and liability for
21 actions related to the dam;

22 (2) all district assets and liabilities to other
23 entities; and

24 (3) the responsibility for the continued provision of
25 services, if the district provides services.

26 (f) The board must provide an opportunity for the public to
27 comment on the financial agreement described by Subsection (d) or
28 (e) before the board votes as described by Subsection (g). The
29 period for public comment must last not less than 10 days.

30 (g) After consideration of the public comments submitted
31 under Subsection (f), the board shall vote on the issue described by
32 the order issued or resolution adopted under Subsection (b). The
33 board may proceed with the withdrawal or dissolution only if
34 two-thirds of all of the members of the board vote in favor of

1 withdrawal or dissolution.

2 (h) If the board votes in favor of withdrawal or dissolution
3 as provided by Subsection (g), the governing body of each member
4 entity shall vote on the matter of withdrawal or dissolution.

5 (i) A withdrawal or dissolution authorized under this
6 section does not take effect until:

7 (1) the governing body of each county and municipality
8 has voted in favor of withdrawal or dissolution;

9 (2) all conditions specified in the financial
10 agreement described by Subsection (d) or (e) have been met; and

11 (3) all actions described in the financial agreement
12 described by Subsection (d) or (e) have been completed. (Acts 63rd
13 Leg., R.S., Ch. 438, Sec. 13A.)

14 Source Law

15 Sec. 13A. (a) A county or municipality may
16 withdraw from the district or the district may
17 dissolve according to this section.

18 (b) In order to withdraw from the district or to
19 dissolve the district, the governing body of a member
20 entity must issue an order or pass a resolution
21 declaring the intent to withdraw from or dissolve the
22 district. The order or resolution must state:

23 (1) the intention to either withdraw from
24 the district or call for the dissolution of the
25 district; and

26 (2) the reasons supporting the withdrawal
27 or dissolution.

28 (c) Not later than the 30th day after the date
29 the district receives an order or resolution under
30 Subsection (b), the district shall hold a public
31 hearing on the matter described by the order or
32 resolution.

33 (d) In the event of a proposed withdrawal or
34 dissolution under this section, the member entities
35 must reach a financial agreement that:

36 (1) for a withdrawal of a county or
37 municipality from the district, provides for
38 sufficient revenue for maintaining the Palo Duro
39 Reservoir and the dam that impounds the water in the
40 reservoir; or

41 (2) for a dissolution of the district,
42 provides for the transfer of:

43 (A) the ownership rights of the dam
44 to an entity that assumes responsibility for the
45 maintenance of the dam and liability for actions
46 related to the dam;

47 (B) all assets and liabilities of the
48 district to other entities; and

49 (C) the responsibility for the
50 continued provision of services, if the district
51 provides services.

52 (e) The board must provide an opportunity for
53 the public to comment on the financial agreement

1 described by Subsection (d) before the board votes as
2 described by Subsection (f). The period for public
3 comment must last not less than 10 days.

4 (f) After consideration of the public comments
5 submitted under Subsection (e), the board shall vote
6 on the issue described by the order or resolution under
7 Subsection (b). The board may proceed with the
8 withdrawal or dissolution only if two-thirds of all of
9 the members of the board vote in favor of withdrawal or
10 dissolution.

11 (g) If the board votes in favor of withdrawal or
12 dissolution as provided by Subsection (f), the
13 governing body of each member entity shall vote on the
14 matter of withdrawal or dissolution.

15 (h) A withdrawal or dissolution authorized
16 under this section does not take effect until:

17 (1) the governing body of each county and
18 municipality has voted in favor of withdrawal or
19 dissolution;

20 (2) all conditions specified in the
21 financial agreement described by Subsection (d) have
22 been met; and

23 (3) all actions described in the financial
24 agreement described by Subsection (d) have been
25 completed.

26 SUBCHAPTER C. BOARD OF DIRECTORS; ADMINISTRATIVE PROVISIONS

27 Revised Law

28 Sec. 8509.0101. COMPOSITION OF BOARD; TERMS. (a) Four
29 directors are appointed by the commissioners court of each county
30 contained in the district, except for Hutchinson County, and one
31 director is appointed by the city council of the City of Stinnett.

32 (b) Directors serve staggered two-year terms expiring
33 December 31.

34 (c) Each December the commissioners court of each county
35 contained in the district, except for Hutchinson County, and the
36 city council of the City of Stinnett shall appoint a director or
37 directors from that county or city to succeed the director or
38 directors appointed by that commissioners court or city council
39 whose terms expire on the 31st day of that month. (Acts 63rd Leg.,
40 R.S., Ch. 438, Secs. 17(a), (b) (part), (c) (part).)

41 Source Law

42 Sec. 17. (a) All powers of the district shall
43 be exercised by the board. Each director of the board
44 shall serve staggered, two-year terms that expire on
45 December 31 of each year.

46 (b) In December of each year, the Commissioners
47 Court of each county contained in the district, except
48 for Hutchinson County, and the city council of the City
49 of Stinnett shall appoint a director or directors
50 whose term or terms are about to expire. . . . Four (4)
51 directors shall be appointed by the Commissioners

1 Court of each county contained in the district, except
2 for Hutchinson County, and one director shall be
3 appointed by the city council of the City of Stinnett.

4 . . .
5 (c) Each director shall serve for the director's
6 term of office as herein provided, and

7 Revisor's Note

8 Section 17(a), Chapter 438, Acts of the 63rd
9 Legislature, Regular Session, 1973, provides that
10 "[a]ll powers of the district shall be exercised by the
11 board." The revised law omits the quoted language
12 because it duplicates, in substance, provisions of
13 Sections 49.051 and 49.057, Water Code. Throughout
14 this chapter, the revised law omits law that is
15 superseded by Chapter 49, Water Code, or that
16 duplicates law contained in that chapter. Chapter 49,
17 Water Code, applies to the district under Sections
18 49.001 and 49.002 of that chapter.

19 Revised Law

20 Sec. 8509.0102. QUALIFICATIONS FOR OFFICE. (a) A person
21 may be appointed a director by the commissioners court of a county
22 only if the person resides in and owns taxable property in the
23 county from which the person is appointed.

24 (b) A person may be appointed director by the city council
25 of the City of Stinnett only if the person resides in and owns
26 taxable property in the city.

27 (c) A member of a governing body of a county or of the City
28 of Stinnett or an employee of a county or of the City of Stinnett may
29 not be appointed director. (Acts 63rd Leg., R.S., Ch. 438,
30 Secs. 17(b) (part), (c) (part).)

31 Source Law

32 (b) . . . Each director shall reside in the
33 county from which the director is appointed.

34 (c) . . . No person shall be appointed a
35 director unless the person resides in and owns taxable
36 property in the county or city from which the person
37 is appointed. No member of a governing body of a
38 county or the City of Stinnett, and no employee of a
39 county or the City of Stinnett shall be appointed as
40 director. . . .

1 Revised Law

2 Sec. 8509.0103. REMOVAL. Not earlier than the 10th day
3 after the date a director receives written notice of a charge
4 against the director, and after an opportunity to be heard in person
5 or through the appearance of counsel at a public hearing on the
6 matter of the charge described by the notice, the board may remove a
7 director for:

- 8 (1) inefficiency;
9 (2) neglect of duty; or
10 (3) misconduct in office. (Acts 63rd Leg., R.S.,
11 Ch. 438, Sec. 19C.)

12 Source Law

13 Sec. 19C. Not earlier than the 10th day after
14 the date a director receives written notice of a charge
15 against the director, and after an opportunity to be
16 heard in person or through the appearance of counsel at
17 a public hearing on the matter of the charge described
18 by the notice, the board may remove a director for:

- 19 (1) inefficiency;
20 (2) neglect of duty; or
21 (3) misconduct in office.

22 Revised Law

23 Sec. 8509.0104. VACANCY. (a) If a director appointed by
24 the commissioners court of a county ceases to reside in the county
25 or otherwise ceases to serve as a director, the commissioners court
26 of that county shall appoint a director to fill the vacancy for the
27 unexpired term.

28 (b) If a director appointed by the city council of the City
29 of Stinnett ceases to reside in the city or otherwise ceases to
30 serve as a director, the city council of that city shall appoint a
31 director to fill the vacancy for the unexpired term. (Acts 63rd
32 Leg., R.S., Ch. 438, Secs. 17(b) (part), (c) (part).)

33 Source Law

34 (b) . . . Any vacancy shall be filled for the
35 unexpired term by the governing body of the
36 appropriate county or city. . . .

37 (c) . . . If any director moves from the county
38 or city from which the director is appointed or
39 otherwise ceases to be a director, the Commissioners
40 Court of such county or the city council of the City of
41 Stinnett, as appropriate, shall appoint a director to
42 succeed in the position for the unexpired term.

1 Revised Law

2 Sec. 8509.0105. OFFICERS. (a) The board shall elect from
3 the board's membership a president, a vice president, and any other
4 officers as the board determines necessary. The president is the
5 district's chief executive officer and the board's presiding
6 officer. Except as provided by Section 8509.0106, the vice
7 president shall act as president if the president is absent or fails
8 or declines to act.

9 (b) The board shall appoint a secretary and a treasurer, who
10 are not required to be directors. The board may combine the offices
11 of secretary and treasurer. (Acts 63rd Leg., R.S., Ch. 438, Sec. 18
12 (part).)

13 Source Law

14 Sec. 18. The board shall elect from its number a
15 president and a vice president of the district, and
16 such other officers as in the judgment of the board are
17 necessary. The president shall be the chief executive
18 officer of the district and the presiding officer of
19 the board, and The vice president shall perform
20 all duties and exercise all powers conferred by this
21 Act upon the president when the president is absent or
22 fails or declines to act [except the president's right
23 to vote]. The board shall also appoint a secretary and
24 a treasurer who may or may not be members of the board,
25 and it may combine those offices. . . .

26 Revised Law

27 Sec. 8509.0106. VOTE BY BOARD PRESIDENT. The president has
28 the same right to vote as any other director. The vice president
29 may not exercise the president's right to vote. (Acts 63rd Leg.,
30 R.S., Ch. 438, Sec. 18 (part).)

31 Source Law

32 Sec. 18. . . . The president . . . shall have
33 the same right to vote as any other director. [The
34 vice president shall perform all duties and exercise
35 all powers conferred by this Act upon the president]
36 . . . except the president's right to vote. . . .

37 Revised Law

38 Sec. 8509.0107. EMPLOYEES. The board may employ a general
39 manager, attorneys, accountants, engineers, or other technical or
40 nontechnical employees or assistants and set the amount and manner
41 of their compensation. (Acts 63rd Leg., R.S., Ch. 438, Sec. 19

1 (part).)

2 Source Law

3 Sec. 19. The board . . . may employ a general
4 manager, attorneys, accountants, engineers, or other
5 technical or nontechnical employees or assistants; fix
6 the amount and manner of their compensation; and
7

8 Revisor's Note

9 Section 19, Chapter 438, Acts of the 63rd
10 Legislature, Regular Session, 1973, authorizes the
11 board of directors to confer on the general manager the
12 power to employ and discharge employees. The revised
13 law omits that provision because it duplicates, in
14 substance, part of Section 49.056, Water Code. The
15 omitted law reads:

16 Sec. 19. . . . The power to employ
17 and discharge employees may be conferred
18 upon the general manager.

19 Revised Law

20 Sec. 8509.0108. DIRECTOR'S AND TREASURER'S BONDS. (a) Each
21 director shall give bond in the amount of \$5,000 conditioned on the
22 faithful performance of the director's duties.

23 (b) The treasurer shall give bond in an amount required by
24 the board. The treasurer's bond must be conditioned on the
25 treasurer's faithful accounting for all money that comes into the
26 treasurer's custody as district treasurer. (Acts 63rd Leg., R.S.,
27 Ch. 438, Secs. 17(c) (part), 18 (part).)

28 Source Law

29 [Sec. 17]

30 (c) . . . [Such directors] . . . each shall give
31 bond for the faithful performance of the director's
32 duties in the amount of Five Thousand Dollars
33 (\$5,000.),

34 Sec. 18. . . . The treasurer shall give bond in
35 such amount as may be required by the board. The
36 condition of such bond shall be that the treasurer will
37 faithfully account for all money which shall come into
38 the treasurer's custody as treasurer of the district,
39 and

40 Revisor's Note

41 Section 17(c), Chapter 438, Acts of the 63rd

1 Legislature, Regular Session, 1973, provides that the
2 district shall pay the cost of a director's bond. The
3 revised law omits that provision because it
4 duplicates, in substance, Section 49.055(c), Water
5 Code. The omitted law reads:

6 (c) . . . [Such directors . . . shall
7 give bond] . . . the cost of which shall be
8 paid by the district. . . .

9 Revised Law

10 Sec. 8509.0109. COMPENSATION OF DIRECTORS. (a) Unless the
11 board by resolution increases the fee to an amount authorized by
12 Section 49.060, Water Code, each director:

13 (1) shall receive a fee for attending each board
14 meeting not to exceed \$25 for a meeting or \$50 in one calendar
15 month; and

16 (2) is entitled to an additional amount not to exceed
17 \$25 for each day that the director devotes to serving the district's
18 business if the service is expressly approved by the board.

19 (b) In all areas of conflict with Subsection (a) of this
20 section, Section 49.060, Water Code, takes precedence. (Acts 63rd
21 Leg., R.S., Ch. 438, Sec. 17(d) (part); New.)

22 Source Law

23 (d) Unless the board by resolution increases the
24 fee to an amount authorized by Section 49.060, Water
25 Code, each director shall receive a fee of not to
26 exceed Twenty-Five Dollars (\$25.) for attending each
27 meeting of the board, provided that no more than Fifty
28 Dollars (\$50.) shall be paid to any director for
29 meetings held in any one (1) calendar month. Each
30 director shall also be entitled to receive not to
31 exceed Twenty-Five Dollars (\$25.) per day devoted to
32 the business of the district and . . . provided that
33 such service and . . . are expressly approved by the
34 board.

35 Revisor's Note

36 (1) Section 17(d), Chapter 438, Acts of the 63rd
37 Legislature, Regular Session, 1973, provides in part
38 that "[u]nless the board by resolution increases the
39 fee to an amount authorized by Section 49.060, Water
40 Code, each director shall receive a fee of not to

1 exceed Twenty-Five Dollars (\$25.) for attending each
2 meeting of the board, provided that no more than Fifty
3 Dollars (\$50.) shall be paid to any director for
4 meetings held in any one (1) calendar month." Section
5 17(d) was amended by Chapter 1046, Acts of the 85th
6 Legislature, Regular Session, 2017, to include the
7 reference to Section 49.060, Water Code, which was
8 enacted in 1995 and applies to the district on its own
9 terms. Section 49.060 provides for a director's fees
10 of office, computed on a rate per day of certain
11 service. Section 49.060(e) provides that, in all
12 areas of conflict, Section 49.060 takes precedence
13 over all prior statutory enactments and that, if the
14 enactment of that section would result in a fee
15 increase, the increase does not apply to a district
16 unless the board by resolution authorizes payment of
17 the higher fees. Because it is unclear whether the
18 district has taken an action relating to fees paid to
19 directors and whether the quoted language, after its
20 revision by this chapter, would continue to be
21 considered a prior statutory enactment for purposes of
22 Section 49.060(e), the revised law includes the
23 substance of the quoted language and adds a provision
24 to preserve the effect of Section 49.060 to the extent
25 of a conflict with that language.

26 (2) Section 17(d), Chapter 438, Acts of the 63rd
27 Legislature, Regular Session, 1973, provides in part
28 for reimbursement of expenses incurred by a director
29 in attending to district business if expressly
30 approved by the board. The revised law omits the
31 provision because it is expressly superseded by
32 Section 49.060, Water Code (enacted in 1995). The
33 omitted law reads:

34 (d) . . . [Each director shall also

1 be entitled] . . . to reimbursement for
2 actual expenses incurred in attending to
3 district business [provided that such
4 service and] expense [are expressly
5 approved by the board.]

6 Revised Law

7 Sec. 8509.0110. INTEREST IN CONTRACT. (a) A director who
8 has a financial interest in a contract under consideration by the
9 district for the purchase, sale, lease, rental, or supply of
10 property, including supplies, materials, and equipment, or the
11 construction of facilities, shall disclose that fact to the other
12 directors and may not vote on or participate in discussions during
13 board meetings on the acceptance of the contract.

14 (b) A director's financial interest does not affect the
15 validity of a contract if disclosure is made and the director with
16 the financial interest does not vote on the question of entering
17 into the contract. (Acts 63rd Leg., R.S., Ch. 438, Sec. 19B.)

18 Source Law

19 Sec. 19B. A director who has a financial
20 interest in a contract under consideration by the
21 district for the purchase, sale, lease, rental, or
22 supply of property, including supplies, materials, and
23 equipment, or the construction of facilities, shall
24 disclose that fact to the other members of the board
25 and may not vote on or participate in discussions
26 during board meetings on the acceptance of the
27 contract. A financial interest of a director does not
28 affect the validity of a contract if disclosure is made
29 and the director with the financial interest does not
30 vote on the question of entering into the contract.

31 Revised Law

32 Sec. 8509.0111. DIRECTOR TRAINING PROGRAM. (a) A person
33 who is appointed to and qualifies for office as a director may not
34 vote, deliberate, or be counted as a director in attendance at a
35 board meeting until the person completes a training program that
36 complies with this section.

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

- 39 (1) the law governing district operations;
40 (2) the district's programs, functions, rules, and
41 budget;
42 (3) the scope of and limitations on the district's

1 rulemaking authority;

2 (4) the results of the district's most recent formal
3 audit;

4 (5) the requirements of:

5 (A) laws relating to open meetings, public
6 information, administrative procedure, and disclosing conflicts of
7 interest; and

8 (B) other laws applicable to members of the
9 governing body of a water district in performing their duties; and

10 (6) any applicable ethics policies adopted by the
11 board or the Texas Ethics Commission.

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

16 (d) The board shall create a training manual that includes
17 the information required by Subsection (b). The board shall
18 distribute a copy of the training manual annually to each director.
19 On receipt of the training manual, each director shall sign a
20 statement acknowledging receipt of the training manual. (Acts 63rd
21 Leg., R.S., Ch. 438, Sec. 19D.)

22 Source Law

23 Sec. 19D. (a) A person who is appointed to and
24 qualifies for office as a director may not vote,
25 deliberate, or be counted as a director in attendance
26 at a meeting of the board until the person completes a
27 training program that complies with this section.

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

30 (1) the law governing district operations;
31 (2) the programs, functions, rules, and
32 budget of the district;

33 (3) the scope of and limitations on the
34 rulemaking authority of the district;

35 (4) the results of the most recent formal
36 audit of the district;

37 (5) the requirements of:

38 (A) laws relating to open meetings,
39 public information, administrative procedure, and
40 disclosing conflicts of interest; and

41 (B) other laws applicable to members
42 of the governing body of a water district in performing
43 their duties; and

44 (6) any applicable ethics policies adopted
45 by the board or the Texas Ethics Commission.

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

6 (d) The board shall create a training manual
7 that includes the information required by Subsection
8 (b). The board shall distribute a copy of the training
9 manual annually to each director. On receipt of the
10 training manual, each director shall sign a statement
11 acknowledging receipt of the training manual.

12 Revised Law

13 Sec. 8509.0112. SEPARATION OF POLICYMAKING AND MANAGEMENT
14 FUNCTIONS. The board shall develop and implement policies that
15 clearly separate the policymaking responsibilities of the board and
16 the management responsibilities of the district's general manager
17 and staff. (Acts 63rd Leg., R.S., Ch. 438, Sec. 19E.)

18 Source Law

19 Sec. 19E. The board shall develop and implement
20 policies that clearly separate the policymaking
21 responsibilities of the board and the management
22 responsibilities of the general manager and staff of
23 the district.

24 Revised Law

25 Sec. 8509.0113. COMPLAINTS. (a) The district shall
26 maintain a system to promptly and efficiently act on complaints
27 filed with the district. The district shall maintain information
28 about parties to the complaint, the subject matter of the
29 complaint, a summary of the results of the review or investigation
30 of the complaint, and its disposition.

31 (b) The district shall make information available
32 describing its procedures for complaint investigation and
33 resolution.

34 (c) The district shall periodically notify the parties to
35 the complaint of the status of the complaint until final
36 disposition. (Acts 63rd Leg., R.S., Ch. 438, Sec. 19F.)

37 Source Law

38 Sec. 19F. (a) The district shall maintain a
39 system to promptly and efficiently act on complaints
40 filed with the district. The district shall maintain
41 information about parties to the complaint, the
42 subject matter of the complaint, a summary of the
43 results of the review or investigation of the
44 complaint, and its disposition.

45 (b) The district shall make information

1 available describing its procedures for complaint
2 investigation and resolution.

3 (c) The district shall periodically notify the
4 complaint parties of the status of the complaint until
5 final disposition.

6 Revised Law

7 Sec. 8509.0114. NEGOTIATED RULEMAKING AND ALTERNATIVE
8 DISPUTE RESOLUTION. (a) The district shall develop a policy to
9 encourage the use of:

10 (1) negotiated rulemaking procedures under Chapter
11 2008, Government Code, for the adoption of district rules; and

12 (2) appropriate alternative dispute resolution
13 procedures under Chapter 2009, Government Code, to assist in the
14 resolution of internal and external disputes under the district's
15 jurisdiction.

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

21 (c) The district shall:

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

24 (2) provide training as needed to implement the
25 procedures for negotiated rulemaking or alternative dispute
26 resolution; and

27 (3) collect data concerning the effectiveness of those
28 procedures. (Acts 63rd Leg., R.S., Ch. 438, Sec. 19G.)

29 Source Law

30 Sec. 19G. (a) The district shall develop a
31 policy to encourage the use of:

32 (1) negotiated rulemaking procedures
33 under Chapter 2008, Government Code, for the adoption
34 of district rules; and

35 (2) appropriate alternative dispute
36 resolution procedures under Chapter 2009, Government
37 Code, to assist in the resolution of internal and
38 external disputes under the district's jurisdiction.

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

1 (c) The district shall:
2 (1) coordinate the implementation of the
3 policy adopted under Subsection (a);
4 (2) provide training as needed to
5 implement the procedures for negotiated rulemaking or
6 alternative dispute resolution; and
7 (3) collect data concerning the
8 effectiveness of those procedures.

9 Revised Law

10 Sec. 8509.0115. PUBLIC COMMENT POLICY. The board shall
11 develop and implement policies that provide the public with a
12 reasonable opportunity to appear before the board and to speak on
13 any agenda item at board meetings. (Acts 63rd Leg., R.S., Ch. 438,
14 Sec. 19A.)

15 Source Law

16 Sec. 19A. The board shall develop and implement
17 policies that provide the public with a reasonable
18 opportunity to appear before the board and to speak on
19 any agenda item at board meetings.

20 Revised Law

21 Sec. 8509.0116. EXPENDITURES. The board may provide for
22 the payment of expenditures considered essential to the proper
23 maintenance of the district and its affairs. (Acts 63rd Leg., R.S.,
24 Ch. 438, Sec. 19 (part).)

25 Source Law

26 Sec. 19. The board . . . may provide for the
27 payment of expenditures deemed essential to the proper
28 maintenance of the district and its affairs. . . .

29 Revised Law

30 Sec. 8509.0117. SEAL. The board may adopt a seal for the
31 district. (Acts 63rd Leg., R.S., Ch. 438, Sec. 18 (part).)

32 Source Law

33 Sec. 18. . . . the board may adopt a seal for
34 the district.

35 Revisor's Note
36 (End of Subchapter)

37 (1) Section 17(c), Chapter 438, Acts of the 63rd
38 Legislature, Regular Session, 1973, provides in part
39 that a director serves until the director's successor
40 is appointed and has qualified. The revised law omits
41 that provision because Section 17, Article XVI, Texas

1 Constitution, provides that an officer in this state
2 continues to perform the officer's official duties
3 until a successor has qualified. The omitted law
4 reads:

5 (c) [Each director shall serve for
6 the director's term of office as herein
7 provided, and] thereafter until the
8 director's successor shall be appointed and
9 qualified. . . .

10 (2) Section 17(c), Chapter 438, Acts of the 63rd
11 Legislature, Regular Session, 1973, requires each
12 director to take the constitutional oath of office.
13 The revised law omits the provision because Section 1,
14 Article XVI, Texas Constitution, requires all officers
15 to take an oath or affirmation before assuming office.
16 The omitted law reads:

17 (c) . . . Such directors shall
18 subscribe the Constitutional oath of
19 office, and

20 (3) Section 17(c), Chapter 438, Acts of the 63rd
21 Legislature, Regular Session, 1973, provides that a
22 majority of the directors constitutes a quorum. The
23 revised law omits that provision because it duplicates
24 Section 49.053, Water Code. The omitted law reads:

25 (c) . . . A majority shall
26 constitute a quorum. . . .

27 SUBCHAPTER D. POWERS AND DUTIES

28 Revised Law

29 Sec. 8509.0151. GENERAL WATER SUPPLY POWERS. (a) The
30 district, inside or outside its boundaries, may:

31 (1) develop, construct, or purchase a dam or
32 reservoir;

33 (2) in order to preserve and protect the purity of the
34 waters of the state and of the district and conserve and reclaim
35 those waters for beneficial use by the district's inhabitants,
36 provide any plant, work, facility, or appliance incident to or
37 helpful or necessary to the collection, transportation,

1 processing, disposal, or control of those waters for agricultural,
2 municipal, domestic, oil field flooding, mining, or industrial
3 purposes;

4 (3) construct or purchase any plant or other facility
5 necessary or useful to:

6 (A) provide a source of water supply;

7 (B) store or process the water; or

8 (C) transport or distribute the water for
9 irrigation, livestock raising, agricultural, municipal, domestic,
10 or industrial purposes;

11 (4) impound, store, control, and conserve the storm
12 and flood waters and the unappropriated flow waters, including the
13 storm and flood waters and unappropriated flow waters of Palo Duro
14 Creek and Horse Creek, by complying with Subchapters A-D, Chapter
15 11, and Subchapter B, Chapter 12, Water Code;

16 (5) acquire or construct a dam or any work, plant, or
17 other facility necessary or useful to impound, process, or
18 transport water to a municipality or other entity for municipal,
19 agricultural, domestic, industrial, oil field flooding, or mining
20 purposes; and

21 (6) develop or purchase additional sources of water,
22 subject to Section 8509.0157.

23 (b) The district may acquire land inside or outside the
24 district's boundaries and construct, lease, or otherwise acquire
25 any work, plant, or other facility necessary or useful to:

26 (1) divert, further impound, or store water;

27 (2) process the water; or

28 (3) transport the water to a municipality or other
29 entity for agricultural, municipal, domestic, industrial, oil
30 field flooding, or mining purposes.

31 (c) The board shall determine the size of a dam and
32 reservoir developed, constructed, or purchased under Subsection
33 (a), taking into consideration probable future increases in water
34 requirements. The size of the dam may not be limited by the amount

1 of water the commission initially authorizes to be impounded by the
2 dam.

3 (d) The district may lease or otherwise acquire rights in
4 and to storage and storage capacity in any reservoir constructed or
5 to be constructed by any person or from the United States. (Acts
6 63rd Leg., R.S., Ch. 438, Secs. 3 (part), 8, 9, 12 (part).)

7 Source Law

8 Sec. 3. The district, inside or outside its
9 boundaries, is hereby empowered: (a) to develop,
10 construct or purchase dams and reservoirs. The
11 district is empowered to construct or to purchase all
12 plants and other facilities necessary or useful for
13 the purpose of providing a source of water supply and
14 storing, processing such water and transporting and
15 distributing it for irrigation, livestock raising,
16 agricultural, municipal, domestic and industrial
17 purposes. The district shall at all times have power
18 to develop or purchase additional sources of water and
19 (b) in order to preserve and protect the purity
20 of the waters of the state and of the district and
21 conserve and reclaim said waters for beneficial use by
22 the inhabitants of the district, to provide all
23 plants, works, facilities and appliances incident to
24 or helpful or necessary to the collection,
25 transportation, processing, disposal, and control of
26 such waters for agricultural, municipal, domestic, oil
27 field flooding, mining and industrial purposes; and
28 (c) the district is empowered to impound, store,
29 control and conserve the storm and flood waters and the
30 unappropriated flow waters, including but not limited
31 to the storm and flood waters and unappropriated flow
32 waters of Palo Duro Creek and Horse Creek, by complying
33 with the provisions of Chapter 1, Title 128, Revised
34 Civil Statutes of Texas, as amended.

35 Sec. 8. The district is authorized to acquire or
36 construct within or without the boundaries of the
37 district a dam or dams and all works, plants and other
38 facilities necessary or useful for the purpose of
39 impounding, processing and transporting water to
40 cities and others for municipal, agricultural,
41 domestic, industrial, oil field flooding, and mining
42 purposes. The size of the dam and reservoir shall be
43 determined by the board, taking into consideration
44 probable future increases in water requirements, and
45 the size of the dam shall not be limited by the amount
46 of water initially authorized by the commission to be
47 impounded therein.

48 Sec. 9. The district is empowered to acquire
49 land within or without the boundaries of the district,
50 and to construct, lease or otherwise acquire all
51 works, plants and other facilities necessary or useful
52 for the purpose of diverting, further impounding or
53 storing water, processing such water and transporting
54 it to cities and others for agricultural, municipal,
55 domestic, industrial, oil field flooding, and mining
56 purposes.

57 Sec. 12. . . . The district is hereby empowered
58 to lease or acquire rights in and to storage and

1 storage capacity in any reservoir constructed or to be
2 constructed by any person, firm, corporation or public
3 agency or from the United States Government or any of
4 its agencies.

5 Revisor's Note

6 (1) Section 3, Chapter 438, Acts of the 63rd
7 Legislature, Regular Session, 1973, authorizes the
8 district to "improve, enlarge and extend" its water
9 system. The revised law omits that provision because
10 it duplicates, in substance, Section 49.211, Water
11 Code. The omitted law reads:

12 Sec. 3. . . . [The district shall
13 . . . have power] . . . to improve, enlarge
14 and extend its water system. . . .

15 (2) Section 3, Chapter 438, Acts of the 63rd
16 Legislature, Regular Session, 1973, authorizes the
17 district to contract for the purchase of water. The
18 revised law omits that provision because it
19 duplicates, in substance, part of Section 49.213(c),
20 Water Code, which authorizes contracts to purchase or
21 sell water. The omitted law reads:

22 Sec. 3. . . . The district is also
23 empowered to make contracts for the
24 purchase of water;

25 (3) Section 3, Chapter 438, Acts of the 63rd
26 Legislature, Regular Session, 1973, authorizes the
27 district to impound, store, control, and conserve
28 certain waters, "including but not limited to" certain
29 specified waters. The revised law omits "but not
30 limited to" because Section 311.005(13), Government
31 Code (Code Construction Act), provides that "includes"
32 and "including" are terms of enlargement and not of
33 limitation and do not create a presumption that
34 components not expressed are excluded.

35 (4) Section 3, Chapter 438, Acts of the 63rd
36 Legislature, Regular Session, 1973, refers to "Chapter
37 1, Title 128, Revised Civil Statutes of Texas, as
38 amended." The pertinent parts of Chapter 1, Title 128,

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

7 (5) Section 12, Chapter 438, Acts of the 63rd
8 Legislature, Regular Session, 1973, refers to any
9 "person, firm, corporation or public agency." The
10 revised law substitutes "person" for the quoted
11 language because Section 311.005(2), Government Code
12 (Code Construction Act), defines "person" to include
13 any legal entity.

14 (6) Section 12, Chapter 438, Acts of the 63rd
15 Legislature, Regular Session, 1973, refers to the
16 United States "Government or any of its agencies." The
17 revised law omits the quoted language because Section
18 311.005(9), Government Code (Code Construction Act),
19 defines the United States to include its agencies.

20 Revised Law

21 Sec. 8509.0152. GENERAL PROPERTY POWER. In addition to
22 powers granted the district under other law, the district has the
23 power to purchase, construct, maintain, or in any other manner
24 acquire, provide, and develop all works, facilities, improvements,
25 lands, easements, and properties that may be necessary or useful in
26 fulfilling any district purpose. (Acts 63rd Leg., R.S., Ch. 438,
27 Sec. 11 (part).)

28 Source Law

29 Sec. 11. . . . The district is further
30 authorized and empowered to purchase, construct,
31 maintain, or in any other lawful manner to acquire,
32 provide and develop all works, facilities,
33 improvements, lands, easements and properties, which
34 may be necessary or useful in fulfilling the purposes
35 of the district or any of them.

36 Revisor's Note

37 Section 11, Chapter 438, Acts of the 63rd

1 Legislature, Regular Session, 1973, permits the
2 district to acquire, provide, and develop works,
3 facilities, improvements, lands, easements, and
4 properties in any "lawful" manner. The revised law
5 omits the word "lawful" as unnecessary because the
6 district would not, in the absence of the term, have
7 the power to act unlawfully.

8 Revised Law

9 Sec. 8509.0153. CONTRACTS TO SUPPLY WATER AND OPERATE
10 FACILITIES. (a) The district may contract with a municipality or
11 other entity to supply water to the municipality or entity.

12 (b) The district may contract with a municipality for the
13 rental or leasing of or for the operation of the municipality's
14 water production, water supply, and water filtration or
15 purification facilities on the consideration agreed to by the
16 district and the municipality.

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

18 (1) be on terms and for the time agreed to by the
19 parties; and

20 (2) provide that the contract will continue in effect
21 until bonds specified in the contract and refunding bonds issued in
22 lieu of the bonds are paid. (Acts 63rd Leg., R.S., Ch. 438, Sec. 6.)

23 Source Law

24 Sec. 6. The district is authorized to enter into
25 contracts with cities and others for supplying water
26 to them. The district is also authorized to contract
27 with any city for the rental or leasing of, or for the
28 operation of the water production, water supply, and
29 water filtration or purification facilities of such
30 city upon such consideration as the district and the
31 city may agree. Any such contract may be upon such
32 terms and for such time as the parties may agree, and
33 it may provide that it shall continue in effect until
34 bonds specified therein and refunding bonds issued in
35 lieu of such bonds are paid.

36 Revised Law

37 Sec. 8509.0154. CONTROL OF STORM AND FLOOD WATERS. The
38 district may:

39 (1) control, store, conserve, protect, distribute,

1 and use the storm and flood waters in the district for all useful
2 purposes permitted by law; and

3 (2) implement flood prevention and control measures in
4 the district and prevent or aid in preventing damage to district
5 lands and the soil and fertility of those lands. (Acts 63rd Leg.,
6 R.S., Ch. 438, Sec. 11 (part).)

7 Source Law

8 Sec. 11. The district herein created shall be
9 and it is hereby empowered to control, store,
10 conserve, protect, distribute and utilize the storm
11 and flood waters within the area of the district for
12 all useful purposes permitted by law; also, to carry
13 out flood prevention and control measures within the
14 district and to prevent or aid in preventing damage to
15 the lands of the district and the soil and fertility
16 thereof;

17 Revised Law

18 Sec. 8509.0155. DISTRICT TO RECEIVE AND ACCEPT TECHNICAL
19 AND FINANCIAL ASSISTANCE. The district may receive and accept
20 technical and financial assistance from other districts or state
21 agencies or from the United States to accomplish the purposes
22 described by Sections 8509.0152 and 8509.0154. (Acts 63rd Leg.,
23 R.S., Ch. 438, Sec. 11 (part).)

24 Source Law

25 Sec. 11. [The district . . . is hereby
26 empowered . . . to cooperate with all other districts,
27 departments or agencies of the State Government, or
28 any agency, representative, instrumentality or
29 department of the United States Government; and] to
30 receive and accept technical and financial assistance
31 therefrom in the accomplishment of the purposes
32 described by this section. . . .

33 Revisor's Note

34 (1) Section 11, Chapter 438, Acts of the 63rd
35 Legislature, Regular Session, 1973, refers to the
36 district's power to act jointly with other entities.
37 The revised law omits the provision because it
38 duplicates, in substance, provisions of Section
39 49.227, Water Code, that provide the district with
40 power to act jointly. The omitted law reads:

41 Sec. 11. [The district . . . is
42 hereby empowered] . . . to cooperate with

1 all other districts, departments or
2 agencies of the State Government, or any
3 agency, representative, instrumentality or
4 department of the United States Government;
5 and

6 (2) Section 11, Chapter 438, Acts of the 63rd
7 Legislature, Regular Session, 1973, refers to the
8 district's power to receive technical and financial
9 assistance from "other districts, departments or
10 agencies of the State Government, or any agency,
11 representative, instrumentality or department of the
12 United States Government." The revised law omits the
13 reference to "any agency, representative,
14 instrumentality or department of" the United States
15 because those entities are included in the definition
16 of "United States" provided by Section 311.005(9),
17 Government Code (Code Construction Act), applicable to
18 the revised law. The revised law also omits
19 "departments" because the meaning of the term is
20 included in the meaning of "agencies."

21 Revised Law

22 Sec. 8509.0156. WATER APPROPRIATION PERMITS. (a) Through
23 an appropriate hearing, the district may obtain an appropriation
24 permit from the commission, as provided by Subchapters A-D, Chapter
25 11, and Subchapter B, Chapter 12, Water Code.

26 (b) On application of the district or at the will of the
27 commission and after an appropriate hearing, the commission may
28 modify an appropriation permit obtained by the district from the
29 commission to increase or decrease the amount of water that may be
30 appropriated and the amount that may be stored by the district to
31 meet fluctuating demands.

32 (c) On application by the district or by the commission's
33 own action, the commission shall redetermine the maximum amount of
34 water that the district may store in the district's reservoir. In
35 making this determination, the commission shall consider the needs
36 of the municipalities and other entities that purchase water from

1 the district.

2 (d) The district may acquire a water appropriation permit
3 from a permit owner. (Acts 63rd Leg., R.S., Ch. 438, Secs. 7, 12
4 (part).)

5 Source Law

6 Sec. 7. The district is empowered to obtain
7 through appropriate hearings an appropriation permit
8 or permits from the commission, as provided in Chapter
9 1 of Title 128, Revised Civil Statutes of 1925, as
10 amended. Thereafter such permit, either upon
11 application of the district or at the will of the
12 commission, may be modified by the commission after an
13 appropriate hearing to increase or decrease the amount
14 of water which may be appropriated and the amount which
15 may be stored by the district to meet fluctuating
16 demands. On application by the district or by its own
17 action the commission shall redetermine the maximum
18 amount of water which the district may store in its
19 reservoir and in making such determination it shall
20 consider the needs of the cities and others that
21 purchase water from the district.

22 Sec. 12. The district is authorized to acquire
23 water appropriation permits from owners of permits.
24 . . .

25 Revisor's Note

26 Section 7, Chapter 438, Acts of the 63rd
27 Legislature, Regular Session, 1973, refers to "Chapter
28 1 of Title 128, Revised Civil Statutes of 1925, as
29 amended." The revised law substitutes a reference to
30 "Subchapters A-D, Chapter 11, and Subchapter B,
31 Chapter 12, Water Code," for the reason stated in
32 Revisor's Note (4) to Section 8509.0151.

33 Revised Law

34 Sec. 8509.0157. UNDERGROUND SOURCES OF WATER. The district
35 may not develop or otherwise acquire underground sources of water.
36 (Acts 63rd Leg., R.S., Ch. 438, Sec. 5(a) (part).)

37 Source Law

38 (a) . . . The Authority is not authorized to
39 develop or otherwise acquire underground sources of
40 water.

41 Revisor's Note

42 Section 5(a), Chapter 438, Acts of the 63rd
43 Legislature, Regular Session, 1973, refers to the

1 district as the "Authority." The revised law
2 substitutes "district" for "Authority" to more closely
3 conform to the name of the district and because
4 "district" is the defined term under this chapter used
5 to refer to the district.

6 Revised Law

7 Sec. 8509.0158. LIMITATION ON CONSTRUCTION OF CERTAIN
8 FACILITIES. The district may not construct a dam or other facility
9 for impounding water unless the plans for the dam or facility are
10 approved by the commission. (Acts 63rd Leg., R.S., Ch. 438, Sec.
11 5(a) (part).)

12 Source Law

13 Sec. 5. (a) The district may not construct a
14 dam or other facility for impounding water until the
15 plans therefor are approved by the commission. . . .

16 Revised Law

17 Sec. 8509.0159. DISPOSAL OF DISTRICT PROPERTY. The
18 district may sell, trade, or otherwise dispose of any property
19 considered by the district not to be needed for district purposes,
20 subject to the terms of any deed of trust or other indenture. (Acts
21 63rd Leg., R.S., Ch. 438, Sec. 5(b).)

22 Source Law

23 (b) The district may sell, trade, or otherwise
24 dispose of any real or personal property deemed by the
25 district not to be needed for district purposes,
26 subject to the terms of any deed of trust or other
27 indenture.

28 Revisor's Note

29 Section 5(b), Chapter 438, Acts of the 63rd
30 Legislature, Regular Session, 1973, refers to "real or
31 personal property." The revised law substitutes
32 "property" for the quoted language because under
33 Section 311.005(4), Government Code (Code
34 Construction Act), "property" means "real and personal
35 property."

36 Revised Law

37 Sec. 8509.0160. EMINENT DOMAIN. (a) To carry out a power

1 conferred by this chapter, the district may exercise the power of
2 eminent domain to acquire:

3 (1) the fee simple title to land and other property and
4 easements inside the district, including land needed for a
5 reservoir or dam or a flood easement above the probable high-water
6 line around a reservoir; and

7 (2) the fee simple title to land and other property and
8 easements outside the district, except for land, other property,
9 and easements to be used for a dam or facility for the impoundment
10 or storage of water.

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

13 (c) The district is a municipal corporation for the purposes
14 of Section 21.021, Property Code.

15 (d) The district may not exercise the power of eminent
16 domain to acquire property owned by any other political
17 subdivision.

18 (e) In exercising the power of eminent domain against a
19 person that has the power of eminent domain or a receiver or trustee
20 for that person, the district may acquire an easement only and not
21 the fee title.

22 (f) The board shall determine the amount of and the type of
23 interest in land, other property, or easements to be acquired under
24 this section.

25 (g) The district's authority under this section to exercise
26 the power of eminent domain expired on September 1, 2013, unless the
27 district submitted a letter to the comptroller in accordance with
28 Section 2206.101(b), Government Code, not later than December 31,
29 2012. (Acts 63rd Leg., R.S., Ch. 438, Sec. 10; New.)

30 Source Law

31 Sec. 10. (a) For the purpose of carrying out
32 any power or authority conferred by this Act the
33 district shall have the right to acquire by
34 condemnation in the manner provided by Title 52,
35 Revised Statutes, as amended, relating to eminent
36 domain:

37 (1) the fee simple title to land and other

1 property and easements (including land needed for the
2 reservoir and dam and flood easements above the
3 probable high water line around any such reservoirs)
4 within the boundaries of the district; and

5 (2) the fee simple title to land and other
6 property and easements (except for land, other
7 property, and easements to be used for a dam or dams or
8 facilities for the impoundment or storage of water)
9 outside the boundaries of the district.

10 (b) The district is hereby declared to be a
11 municipal corporation within the meaning of Article
12 3268 of said Title 52, except that the district shall
13 not have the right to so condemn any property which may
14 be owned by any other political subdivision, city or
15 town; provided, however, that as against persons,
16 firms and corporations, or receivers or trustees
17 thereof, who have the power of eminent domain, the fee
18 title may not be condemned, but the district may
19 condemn only an easement. The amount of and character
20 of interest in land, other property and easements thus
21 to be acquired shall be determined by the board.

22 Revisor's Note

23 (1) Section 10(a), Chapter 438, Acts of the 63rd
24 Legislature, Regular Session, 1973, refers to any
25 "power or authority" of the district. The revised law
26 omits "authority" in this context because "authority"
27 is included in the meaning of "power."

28 (2) Section 10(a), Chapter 438, Acts of the 63rd
29 Legislature, Regular Session, 1973, provides that "the
30 district shall have the right to acquire by
31 condemnation . . . [certain property]." The revised
32 law substitutes for the quoted language "the district
33 may exercise the power of eminent domain to acquire
34 [certain property]" because the phrases have the same
35 meaning and the latter is consistent with modern usage
36 in laws relating to eminent domain.

37 (3) Section 10(a), Chapter 438, Acts of the 63rd
38 Legislature, Regular Session, 1973, refers to Title
39 52, Revised Statutes, as amended. The relevant
40 provisions of Title 52 were codified as Chapter 21,
41 Property Code, by Chapter 576, Acts of the 68th
42 Legislature, Regular Session, 1983. The revised law
43 is drafted accordingly.

44 (4) Section 10, Chapter 438, Acts of the 63rd

1 Legislature, Regular Session, 1973, grants the
2 district the power of eminent domain, subject to
3 certain limitations. Section 2206.101, Government
4 Code, required an entity with eminent domain authority
5 to submit a letter with certain information to the
6 comptroller not later than December 31, 2012, to
7 prevent the entity's eminent domain authority from
8 expiring on September 1, 2013. To avoid the appearance
9 that this revision recognizes authority that the
10 district may not possess at the time of the revision,
11 the revised law includes a provision setting out the
12 requirements of Section 2206.101, Government Code.

13 (5) Section 10(b), Chapter 438, Acts of the 63rd
14 Legislature, Regular Session, 1973, refers to Article
15 3268, Revised Statutes. The applicable part of that
16 statute was codified as Section 21.021, Property Code,
17 by Chapter 576, Acts of the 68th Legislature, Regular
18 Session, 1983. The revised law is drafted
19 accordingly.

20 (6) Section 10(b), Chapter 438, Acts of the 63rd
21 Legislature, Regular Session, 1973, refers to a
22 "political subdivision, city or town." The revised
23 law omits the reference to "city or town" because those
24 terms are included in the meaning of "political
25 subdivision."

26 (7) Section 10(b), Chapter 438, Acts of the 63rd
27 Legislature, Regular Session, 1973, refers to
28 "persons, firms and corporations." The revised law
29 substitutes "person" for the quoted language for the
30 reason stated in Revisor's Note (5) to Section
31 8509.0151.

32 Revised Law

33 Sec. 8509.0161. COST OF RELOCATING OR ALTERING PROPERTY.

34 If the district's exercise of the power of eminent domain, the power

1 of relocation, or any other power granted by this chapter makes
2 necessary relocating, raising, rerouting, changing the grade of, or
3 altering the construction of a highway, railroad, electric
4 transmission line, telephone or telegraph property or facility, or
5 pipeline, the necessary action shall be accomplished at the
6 district's sole expense. (Acts 63rd Leg., R.S., Ch. 438, Sec. 15.)

7 Source Law

8 Sec. 15. In the event that the district, in the
9 exercise of the power of eminent domain or power of
10 relocation, or any other power granted hereunder,
11 makes necessary the relocation, raising, rerouting or
12 changing the grade of, or altering the construction of
13 any highway, railroad, electric transmission line,
14 telephone or telegraph properties and facilities, or
15 pipeline, all such necessary relocation, raising,
16 rerouting, changing of grade or alteration of
17 construction shall be accomplished at the sole expense
18 of the district.

19 Revised Law

20 Sec. 8509.0162. CERTAIN POWERS RELATED TO DISTRICT
21 PROPERTY. The district may:

22 (1) lease the hunting rights on property owned by the
23 district;

24 (2) develop, manage, or lease property owned by the
25 district for any recreational purpose; and

26 (3) lease property owned by the district to a person
27 seeking to develop renewable energy resources. (Acts 63rd Leg.,
28 R.S., Ch. 438, Sec. 3A.)

29 Source Law

30 Sec. 3A. The district may:
31 (1) lease the hunting rights on property
32 owned by the district;
33 (2) develop, manage, or lease property
34 owned by the district for any recreational purpose;
35 and
36 (3) lease property owned by the district
37 to a person seeking to develop renewable energy
38 resources.

39 Revised Law

40 Sec. 8509.0163. PARKS AND RECREATION FACILITIES. The
41 district may establish or otherwise provide for public parks and
42 recreation facilities and may acquire land in the district for
43 those purposes. (Acts 63rd Leg., R.S., Ch. 438, Sec. 14.)

1 around any reservoir, body of land, or easement owned by the
2 district. (Acts 63rd Leg., R.S., Ch. 438, Sec. 13(a).)

3 Source Law

4 Sec. 13. (a) The board shall have the power to
5 adopt and promulgate all reasonable regulations to
6 secure, maintain, and preserve the sanitary condition
7 of all water in and to flow into any reservoir owned by
8 the district, to prevent waste of water or the
9 unauthorized use thereof, and to regulate residence,
10 hunting, fishing, boating and camping, and all
11 recreational and business privileges, along or around
12 any such reservoir, body of land, or easement owned by
13 the district.

14 Revisor's Note

15 (1) Section 13(a), Chapter 438, Acts of the 63rd
16 Legislature, Regular Session, 1973, refers to the
17 district's power to "adopt and promulgate" reasonable
18 regulations. The revised law omits the reference to
19 "promulgate" because, in context, the authority to
20 "promulgate" a rule is implicit in the authority to
21 "adopt" a rule.

22 (2) Section 13(a), Chapter 438, Acts of the 63rd
23 Legislature, Regular Session, 1973, refers to
24 "regulations" adopted by the district. Throughout
25 this chapter, the revised law substitutes "rules" for
26 "regulations" or "rules and regulations" because, in
27 context, the terms are synonymous and under Section
28 311.005(5), Government Code (Code Construction Act), a
29 rule is defined to include a regulation.

30 Revised Law

31 Sec. 8509.0202. ENFORCEMENT OF RULES; PENALTY. (a) The
32 district by rule may prescribe reasonable penalties for the
33 violation of a district rule.

34 (b) A penalty may consist of a fine not to exceed \$200.

35 (c) A penalty prescribed under this section is in addition
36 to any other penalty provided by the laws of this state. (Acts 63rd
37 Leg., R.S., Ch. 438, Sec. 13(b) (part).)

1 (c) The statement may include notice of any number of rules.

2 (d) The notice must state that:

3 (1) a person who violates the rule is subject to a
4 penalty; and

5 (2) the rule is on file in the district's principal
6 office, where the rule may be read by any interested person.

7 (e) A rule takes effect five days after the date of second
8 publication of the statement under this section. (Acts 63rd Leg.,
9 R.S., Ch. 438, Sec. 13(b) (part).)

10 Source Law

11 (b) . . . provided, however, that no rule or
12 regulation which provides a penalty for the violation
13 thereof shall be in effect, as to enforcement of the
14 penalty, until five (5) days next after the district
15 may have caused a substantive statement of the
16 particular rule or regulation and the penalty for the
17 violation thereof to be published, once a week for two
18 (2) consecutive weeks in the county in which such
19 reservoir is situated, or in any county in which it is
20 partly situated. The substantive statement so to be
21 published shall be as condensed as is possible to
22 afford an intelligent direction of the mind to the act
23 forbidden by the rule or regulation; one (1) notice may
24 embrace any number of regulations; there must be
25 embraced in the notice advice that breach of the
26 particular regulation, or regulations, will subject
27 the violator to the infliction of a penalty and there
28 also shall be included in the notice advice that the
29 full text of the regulations sought to be enforced is
30 on file in the principal office of the district, where
31 the same may be read by any interested person. Five
32 (5) days after the second publication of the notice
33 hereby required, the advertised regulation shall be in
34 effect, and ignorance of any such regulation shall not
35 constitute a defense to a prosecution for the
36 enforcement of a penalty and,

37 Revisor's Note

38 Section 13(b), Chapter 438, Acts of the 63rd
39 Legislature, Regular Session, 1973, provides that
40 "ignorance of any such regulation shall not constitute
41 a defense to a prosecution for the enforcement of a
42 penalty." The revised law omits the quoted language
43 because it duplicates, in substance, Section 8.03(a),
44 Penal Code, which applies under Section 1.03(b) of
45 that code to a violation of a rule adopted by the board
46 for which the board has prescribed a penalty. Section

1 8.03(a), Penal Code, provides that after a law has
2 taken effect, ignorance of the provisions of the law is
3 not a defense to prosecution.

4 Revised Law

5 Sec. 8509.0204. JUDICIAL NOTICE OF RULES. A court shall
6 take judicial notice of a rule adopted under this subchapter and
7 published as required by Section 8509.0203, and the court shall
8 consider the rule to be similar in nature to a penal ordinance of a
9 municipality. (Acts 63rd Leg., R.S., Ch. 438, Sec. 13(b) (part).)

10 Source Law

11 (b) . . . the rules and regulations authorized
12 hereby, after the required publication, shall
13 judicially be known to the courts and shall be
14 considered of a nature like unto that of valid penal
15 ordinance of a city of the state.

16 Revisor's Note

17 Section 13(b), Chapter 438, Acts of the 63rd
18 Legislature, Regular Session, 1973, refers to a "valid
19 penal ordinance of a city of the state." The revised
20 law omits "valid" as unnecessary because the word does
21 not add to the clear meaning of the law. An ordinance
22 is not an ordinance if it is not valid.

23 Revised Law

24 Sec. 8509.0205. ENFORCEMENT BY PEACE OFFICERS. (a) A
25 licensed peace officer may make an arrest when necessary to prevent
26 or abate the commission of an offense:

27 (1) in violation of a district rule or a law of this
28 state that occurs or threatens to occur on any land, water, or
29 easement owned or controlled by the district; or

30 (2) involving damage to any property owned or
31 controlled by the district.

32 (b) A peace officer may make an arrest under Subsection
33 (a)(2) at any location. (Acts 63rd Leg., R.S., Ch. 438, Sec.
34 13(c).)

35 Source Law

36 (c) Any duly constituted peace officer,

1 provided such officers meet the Texas Law Officers
2 minimum certification requirements, shall have the
3 power to make arrests when necessary to prevent or
4 abate the commission of any offense against the
5 regulations of the district, and against the laws of
6 the State of Texas, when any such offense or threatened
7 offense occurs upon any land, water or easement owned
8 or controlled by the district, or to make such arrest
9 at any place, in case of an offense involving injury or
10 detriment to any property owned or controlled by such
11 district.

12 Revisor's Note

13 (1) Section 13(c), Chapter 438, Acts of the 63rd
14 Legislature, Regular Session, 1973, refers to a "duly
15 constituted peace officer, provided such officers meet
16 the Texas Law Officers minimum certification
17 requirements." The revised law substitutes "licensed
18 peace officer" for the quoted language because
19 Subchapter G, Chapter 1701, Occupations Code, which
20 regulates the licensing of peace officers, requires a
21 person employed as a peace officer to hold a license
22 issued by the Texas Commission on Law Enforcement.

23 (2) Section 13(c), Chapter 438, Acts of the 63rd
24 Legislature, Regular Session, 1973, refers to an
25 offense involving "injury or detriment." The revised
26 law substitutes "damage" for "injury or detriment"
27 because "damage" conforms to the terminology of the
28 Penal Code regarding property offenses.

29 SUBCHAPTER F. GENERAL FINANCIAL PROVISIONS

30 Revised Law

31 Sec. 8509.0251. TAX METHOD. (a) The district shall use the
32 ad valorem plan of taxation.

33 (b) The board is not required to hold a hearing on the
34 adoption of a plan of taxation. (Acts 63rd Leg., R.S., Ch. 438,
35 Sec. 16 (part).)

36 Source Law

37 Sec. 16. It shall not be necessary for the board
38 . . . to hold . . . a hearing on the adoption of a plan
39 of taxation, but the ad valorem plan of taxation shall
40 be used by the district.

1 Revised Law

2 Sec. 8509.0252. AUTHORITY TO IMPOSE TAX; LIMITATION ON TAX
3 RATE; TAX ELECTION. (a) If a tax is authorized at an election under
4 Section 49.107, Water Code, the district annually may impose an ad
5 valorem tax on the taxable property in the district to provide
6 money:

7 (1) necessary to construct or acquire, maintain, and
8 operate dams, works, plants, and facilities considered essential or
9 beneficial to the district and the district's purposes; or

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

12 (b) The district may not impose an ad valorem tax for the
13 district's maintenance, operation, and administration that exceeds
14 50 cents on the \$100 assessed valuation of the taxable property in
15 the district.

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

18 (1) ordered by the board; and

19 (2) held and conducted in the manner provided by this
20 chapter relating to elections for the authorization of bonds.

21 (Acts 63rd Leg., R.S., Ch. 438, Sec. 27 (part).)

22 Source Law

23 Sec. 27. The district may upon a favorable
24 majority vote of the qualified property taxpaying
25 electors of the district voting at an election held
26 within the boundaries of the district for that
27 purpose, levy, assess and collect annual taxes to
28 provide funds necessary to construct or acquire,
29 maintain and operate dams, works, plants and
30 facilities deemed essential or beneficial to the
31 district and its purposes, and also when so authorized
32 may levy, assess and collect annual taxes as provided
33 by the Tax Code to provide funds adequate to defray the
34 cost of the maintenance, operation and administration
35 of the district; provided, however, that the district
36 shall not have the power to levy or collect a tax for
37 the maintenance, operation, and administration of the
38 district which exceeds fifty cents (50¢) on the One
39 Hundred Dollars (\$100) assessed valuation on the
40 property subject to taxation. Elections for the levy
41 of such taxes shall be ordered by the board and shall
42 be held and conducted in the manner provided by this
43 law relating to elections for the authorization of
44 bonds. . . .

1 Revisor's Note

2 (1) Section 27, Chapter 438, Acts of the 63rd
3 Legislature, Regular Session, 1973, provides that the
4 district may impose taxes if authorized by "a
5 favorable majority vote of the qualified property
6 taxpaying electors of the district voting at an
7 election held within the boundaries of the district
8 for that purpose." The revised law substitutes a
9 reference to Section 49.107, Water Code, parts of
10 which duplicate in substance provisions of Section 27.

11 To the extent that Section 27 limits the election
12 to "qualified" voters, the revised law omits the
13 requirement as unnecessary in this context because
14 Chapter 11, Election Code, governs eligibility to vote
15 in an election in this state and allows only
16 "qualified" voters to vote in an election.

17 To the extent that Section 27 purports to limit
18 the election to "property taxpaying electors," the
19 revised law omits the requirement because in Hill v.
20 Stone, 421 U.S. 289 (1975), the United States Supreme
21 Court determined that property ownership as a
22 qualification for voting is an unconstitutional denial
23 of equal protection.

24 (2) Section 27, Chapter 438, Acts of the 63rd
25 Legislature, Regular Session, 1973, authorizes the
26 district to levy, assess, and collect taxes to provide
27 "funds" necessary or adequate for certain purposes.
28 Throughout this chapter, the revised law substitutes
29 "money" for "funds" (except where a specific type of
30 fund is indicated) because, in context, the meaning is
31 the same and "money" is the more commonly used term.

32 (3) Section 27, Chapter 438, Acts of the 63rd
33 Legislature, Regular Session, 1973, provides that the
34 district may levy, assess, and collect taxes "as

1 provided by the Tax Code" for certain purposes. The
2 quoted language is omitted from the revised law as
3 unnecessary. Any taxes imposed in the state must be
4 imposed as provided by law, and therefore language
5 requiring conformity with the Tax Code is unnecessary.

6 (4) Section 27, Chapter 438, Acts of the 63rd
7 Legislature, Regular Session, 1973, requires the board
8 to designate polling places for an election for the
9 levy of the taxes authorized by that section. The
10 revised law omits the provision because it duplicates
11 in substance Section 43.004, Election Code. That
12 section applies to the district under Section 1.002,
13 Election Code. The omitted law reads:

14 Sec. 27. . . . The board shall
15 designate such polling places as they deem
16 fitting and proper.

17 Revised Law

18 Sec. 8509.0253. DEPOSITORY. (a) The board shall designate
19 one or more banks in the district to serve as depository for the
20 district's money.

21 (b) District money shall be deposited with a designated
22 depository bank or banks, except that:

23 (1) money pledged to pay bonds may be deposited with
24 the trustee bank named in the trust agreement; and

25 (2) money shall be remitted to the bank of payment for
26 the payment of principal of and interest on bonds.

27 (c) To the extent that money in a depository bank or a
28 trustee bank is not insured by the Federal Deposit Insurance
29 Corporation, the money must be secured in the manner provided by law
30 for the security of county funds.

31 (d) The board shall prescribe the terms of service for
32 depositories.

33 (e) Before designating a depository bank, the board shall
34 issue a notice that:

35 (1) states the time and place at which the board will

1 meet to designate a depository bank or banks; and

2 (2) invites the banks in the district to submit an
3 application to be designated as a depository.

4 (f) The notice must be published one time in a newspaper or
5 newspapers published in the district and specified by the board.

6 (g) At the time stated in the notice, the board shall:

7 (1) consider the application and the management and
8 condition of each bank that applies; and

9 (2) designate as a depository the bank or banks that:

10 (A) offer the most favorable terms for handling
11 the money; and

12 (B) the board finds have proper management and
13 are in condition to handle the money.

14 (h) Membership on the board of an officer or director of a
15 bank does not disqualify the bank from being designated as a
16 depository.

17 (i) If the board does not receive any applications before
18 the time stated in the notice, the board shall designate one or more
19 banks located inside or outside the district on terms that the board
20 finds advantageous to the district. (Acts 63rd Leg., R.S., Ch. 438,
21 Sec. 29.)

22 Source Law

23 Sec. 29. (a) The board shall designate one (1)
24 or more banks within the district to serve as
25 depository for the funds of the district. All funds of
26 the district shall be deposited in such depository
27 bank or banks except that funds pledged to pay bonds
28 may be deposited with the trustee bank named in the
29 trust agreement, and except that funds shall be
30 remitted to the bank of payment for the payment of
31 principal of and interest on bonds. To the extent that
32 funds in the depository banks and the trustee bank are
33 not insured by the F.D.I.C. they shall be secured in
34 the manner provided by law for the security of county
35 funds.

36 (b) Before designating a depository bank or
37 banks, the board shall issue a notice stating the time
38 and place when and where the board will meet for such
39 purpose and inviting the banks in the district to
40 submit applications to be designated depositories.
41 The term of service for depositories shall be
42 prescribed by the board. Such notice shall be
43 published one (1) time in a newspaper or newspapers
44 published in the district and specified by the board.

45 (c) At the time mentioned in the notice, the

1 board shall consider the applications and the
2 management and condition of the banks filing them, and
3 shall designate as depositories the bank or banks
4 which offer the most favorable terms and conditions
5 for the handling of the funds of the district and which
6 the board finds have proper management and are in
7 condition to warrant handling of district funds.
8 Membership on the board of an officer or director of a
9 bank shall not disqualify such bank from being
10 designated as depository.

11 (d) If no applications are received by the time
12 stated in the notice, the board shall designate some
13 bank or banks within or without the district upon such
14 terms and conditions as it may find advantageous to the
15 district.

16 Revisor's Note

17 (1) Section 29(a), Chapter 438, Acts of the 63rd
18 Legislature, Regular Session, 1973, refers to the
19 "F.D.I.C." The revised law substitutes a reference to
20 the "Federal Deposit Insurance Corporation" because
21 that is the full name of that entity.

22 (2) Sections 29(c) and (d), Chapter 438, Acts of
23 the 63rd Legislature, Regular Session, 1973, refer to
24 proposed or agreed "terms and conditions" for serving
25 as the district's depository. The revised law omits
26 "conditions" because, in context, the meaning of
27 "conditions" is included in the meaning of "terms."

28 Revised Law

29 Sec. 8509.0254. PAYMENT OF TAX OR ASSESSMENT NOT REQUIRED.
30 The district is not required to pay a tax or assessment on a
31 district project or any part of the project. (Acts 63rd Leg., R.S.,
32 Ch. 438, Sec. 26 (part).)

33 Source Law

34 Sec. 26. . . . The district shall not be
35 required to pay any tax or assessment on the project or
36 any part thereof, and

37 Revisor's Note
38 (End of Subchapter)

39 Sections 28(a), (b), (c), (d), (e), (f), and (g),
40 Chapter 438, Acts of the 63rd Legislature, Regular
41 Session, 1973, establish procedures relating to the
42 imposition of ad valorem taxes. The revised law omits
43 those provisions as superseded by Title 1, Tax Code,

1 which was intended as a comprehensive, substantive
2 codification of all ad valorem tax law and its
3 administration. Title 1, Tax Code, was enacted by
4 Chapter 841, Acts of the 66th Legislature, Regular
5 Session, 1979. Section 6(b) of that act repealed all
6 "general, local, and special laws" that conflicted
7 with that act. The omitted law reads:

8 Sec. 28. (a) The tax rolls of the
9 counties situated within the district are
10 hereby adopted and shall constitute the tax
11 rolls of the district until assessment and
12 tax rolls shall be made by the district.

13 (b) If the district issues and
14 delivers bonds which are payable wholly or
15 partially from ad valorem taxes, or votes
16 the taxes as provided in Section 27, the
17 board annually shall cause the taxable
18 property in the district to be rendered and
19 assessed for ad valorem taxation, and the
20 value of such taxable property to be
21 equalized, and the ad valorem taxes in the
22 district to be collected, in accordance
23 with any of the methods set forth in this
24 section, and any method adopted shall
25 remain in effect until changed by the board.

26 (c) The laws of this State applicable
27 to general-law cities and towns may be
28 adopted and shall be used to the extent
29 pertinent and practicable.

30 (d) The laws of this State applicable
31 to counties may be adopted and shall be used
32 to the extent pertinent and practicable,
33 provided that the board shall have the
34 authority to act as its own board of
35 equalization or to appoint three resident,
36 qualified electors of the district who own
37 taxable property therein to act as the board
38 of equalization of the district, and in
39 either case the board of equalization shall
40 qualify and perform the duties prescribed
41 by law for county commissioners courts
42 acting as boards of equalization.

43 (e) The board shall be authorized to
44 have the taxable property in the district
45 assessed, its values equalized, and/or its
46 taxes collected, in whole or in part, by the
47 tax assessors, board of equalization,
48 and/or tax collectors, respectively, of any
49 county, city, taxing district, or other
50 governmental subdivision in which all or
51 any part of the district is located; and
52 such property may be assessed and the values
53 thereof equalized on the same basis or a
54 different basis than that used by any such
55 governmental subdivision. Such property
56 shall be assessed, the values thereof
57 equalized, and such taxes collected in the
58 manner and for such compensation as shall be
59 agreed on between the appropriate parties,
60 and the functions thus assumed by the

1 officials of any such governmental
2 subdivision shall be additional duties
3 pertaining to their offices, respectively.
4 The ad valorem tax law applicable to each
5 such governmental subdivision shall apply
6 to its officials in carrying out such
7 functions for the district.

8 (f) It is specifically provided,
9 however, that under any method used all
10 taxable property within the district shall
11 be assessed on the same basis, and the
12 values thereof shall be equalized by only
13 one board of equalization, in an equal and
14 uniform manner, as required by the Texas
15 Constitution. If the board desires that
16 taxable property shall be assessed and
17 taxes collected by the tax assessors and/or
18 collectors of more than one governmental
19 subdivision, the board shall either act as
20 its own board of equalization or appoint
21 three resident, qualified electors of the
22 district who own taxable property therein
23 to act as the board of equalization, and in
24 either case the board of equalization shall
25 qualify and perform the duties prescribed
26 by law for county commissioners courts
27 acting as boards of equalization.

28 (g) Any other method or procedure
29 authorized or permitted by any other
30 statute of the State may be adopted, in
31 whole or in part, to the extent pertinent
32 and practicable.

33 SUBCHAPTER G. BONDS

34 Revised Law

35 Sec. 8509.0301. AUTHORITY TO ISSUE BONDS. (a) The district
36 may issue bonds to carry out any power conferred by this chapter,
37 including to provide a source of water supply for municipalities
38 and other users for agricultural, municipal, domestic, industrial,
39 oil field flooding, and mining purposes.

40 (b) The bonds must be authorized by a board resolution.
41 (Acts 63rd Leg., R.S., Ch. 438, Secs. 20(a) (part), (b) (part), (c),
42 (e) (part).)

43 Source Law

44 Sec. 20. (a) For the purpose of providing a
45 source of water supply for cities and other users for
46 agricultural, municipal, domestic, industrial, oil
47 field flooding, and mining purposes, as authorized by
48 this Act, and for the purpose of carrying out any other
49 power or authority conferred by this Act, the district
50 is empowered to issue its negotiable bonds

51 (b) Such bonds shall be authorized by resolution
52 of the board and

53 (c) Bonds may be issued in more than one (1)
54 series and from time to time as required for carrying
55 out the purposes of this Act.

1 (e) The district is also empowered to issue
2 bonds

3 Revisor's Note

4 (1) Section 20(a), Chapter 438, Acts of the 63rd
5 Legislature, Regular Session, 1973, refers to a "power
6 or authority" conferred by that act. The revised law
7 omits the reference to "authority" for the reason
8 stated in Revisor's Note (1) to Section 8509.0160.

9 (2) Section 20(a), Chapter 438, Acts of the 63rd
10 Legislature, Regular Session, 1973, authorizes the
11 district to issue "negotiable" bonds. The revised law
12 omits "negotiable" because Section 1201.041,
13 Government Code, provides that a public security is a
14 negotiable instrument. Throughout this chapter, the
15 revised law omits law that is superseded by Chapter
16 1201, Government Code, or that duplicates law
17 contained in that chapter. Chapter 1201, Government
18 Code, applies to district bonds under Sections
19 1201.002 and 1201.003, Government Code.

20 (3) Section 20(c), Chapter 438, Acts of the 63rd
21 Legislature, Regular Session, 1973, states that
22 district bonds may be issued in "more than one (1)
23 series." The revised law omits the quoted language
24 because it duplicates a provision of Section 1201.022,
25 Government Code.

26 Revised Law

27 Sec. 8509.0302. FORM OF BONDS. District bonds must be:

- 28 (1) issued in the district's name;
29 (2) signed by the president or vice president; and
30 (3) attested by the secretary. (Acts 63rd Leg., R.S.,
31 Ch. 438, Sec. 20(b) (part).)

32 Source Law

33 (b) [Such bonds] . . . shall be issued in the
34 name of the district, signed by the president or vice
35 president, attested by the secretary and

1 Revisor's Note

2 Section 20(b), Chapter 438, Acts of the 63rd
3 Legislature, Regular Session, 1973, provides that
4 district bonds must bear the seal of the district and
5 authorizes "printed or lithographed" signatures and
6 seals. The revised law omits those provisions as
7 unnecessary. The requirement that the bonds bear the
8 seal of the district was impliedly repealed by Section
9 3, Bond Procedures Act of 1981 (Article 717k-6,
10 Vernon's Texas Civil Statutes) (revised in relevant
11 part in 1999 as Section 1201.026(a), Government Code),
12 which provides that bonds may be signed with or without
13 a seal. The authorization for the use of printed or
14 lithographed signatures duplicates Section
15 1201.026(a), Government Code, which also provides that
16 bonds and interest coupons may be executed with manual
17 or facsimile signatures. The omitted law reads:

18 (b) [Such bonds] . . . shall bear the
19 seal of the district. It is provided,
20 however, that the signatures of the
21 president or of the secretary or of both may
22 be printed or lithographed on the bonds if
23 authorized by the board, and that the seal
24 of the district may be impressed on the
25 bonds or may be printed or lithographed
26 thereon. . . .

27 Revised Law

28 Sec. 8509.0303. MATURITY. District bonds must mature not
29 later than 40 years after the date of their issuance. (Acts 63rd
30 Leg., R.S., Ch. 438, Sec. 20(b) (part).)

31 Source Law

32 (b) . . . The bonds shall mature serially or
33 otherwise in not to exceed forty (40) years and

34 Revisor's Note

35 Section 20(b), Chapter 438, Acts of the 63rd
36 Legislature, Regular Session, 1973, provides that
37 district bonds shall mature "serially or otherwise."
38 The revised law omits the quoted language because it is

1 superseded by Section 1201.021, Government Code
2 (enacted as Section 3, Bond Procedures Act of 1981
3 (Article 717k-6, Vernon's Texas Civil Statutes)),
4 which provides that the governing body of an issuer may
5 determine the time of payment of public securities it
6 issues, and by Section 1201.022, Government Code
7 (enacted as Section 5(a), Bond Procedures Act of 1981
8 (Article 717k-6, Vernon's Texas Civil Statutes)),
9 which provides that a public security may be issued
10 with specified characteristics, on specified terms, or
11 in a specified manner.

12 Revised Law

13 Sec. 8509.0304. ELECTION FOR BONDS PAYABLE FROM AD VALOREM
14 TAXES. (a) Bonds, other than refunding bonds, payable wholly or
15 partly from ad valorem taxes may not be issued unless authorized by
16 a majority vote of the voters voting at an election held for that
17 purpose.

18 (b) The board may call an election under this section
19 without a petition. The resolution calling the election must
20 specify:

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

28 (c) Notice of the election must be given by publishing a
29 substantial copy of the resolution calling the election in one
30 newspaper published in each municipality contained in the district
31 for two consecutive weeks. The first publication must be not later
32 than the 21st day before the date of the election. In any
33 municipality in which a newspaper is not published, notice must be
34 given by posting a copy of the resolution in three public places.

1 (d) The district may issue bonds not payable wholly or
2 partly from ad valorem taxes without an election. (Acts 63rd Leg.,
3 R.S., Ch. 438, Secs. 23(a), (b).)

4 Source Law

5 Sec. 23. (a) No bonds payable wholly or
6 partially from ad valorem taxes (except refunding
7 bonds) shall be issued unless authorized by a majority
8 vote of the constitutionally qualified electors voting
9 at such election. Bonds not payable wholly or
10 partially from ad valorem taxes may be issued without
11 an election.

12 (b) Such election may be called by the board
13 without a petition. The resolution calling the
14 election shall specify the time and places of holding
15 the same, the purpose for which the bonds are to be
16 issued, the maximum amount thereof, the maximum
17 maturity thereof, the form of the ballot, and the
18 presiding judge for each voting place. The presiding
19 judge serving at each voting place shall appoint one
20 (1) assistant judge and at least two (2) clerks to
21 assist in holding such election. Notice of the
22 election shall be given by publishing a substantial
23 copy thereof in one (1) newspaper published in each
24 city contained in the district for two (2) consecutive
25 weeks. The first publication shall be at least
26 twenty-one (21) days prior to the election. In any
27 city in which no newspaper is published, notice shall
28 be given by posting a copy of the resolution in three
29 (3) public places.

30 Revisor's Note

31 (1) Section 23(b), Chapter 438, Acts of the 63rd
32 Legislature, Regular Session, 1973, refers to a
33 "voting place." The revised law substitutes "polling
34 place" for "voting place" because "polling place" is
35 the term used in the Election Code.

36 (2) Section 23(b), Chapter 438, Acts of the 63rd
37 Legislature, Regular Session, 1973, provides that
38 "[t]he presiding judge serving at each voting place
39 shall appoint one (1) assistant judge and at least two
40 (2) clerks to assist in holding such election." The
41 revised law omits the quoted language for the reason
42 stated in Revisor's Note (7) to Section 8509.0051.

43 (3) Section 23(c), Chapter 438, Acts of the 63rd
44 Legislature, Regular Session, 1973, provides that the
45 board shall receive and canvass election returns. The
46 revised law omits that provision for the reason stated

1 in Revisor's Note (9) to Section 8509.0051. The
2 omitted law reads:

3 (c) The returns of the election shall
4 be made to and canvassed by the board.

5 (4) Section 23(d), Chapter 438, Acts of the 63rd
6 Legislature, Regular Session, 1973, provides that the
7 general laws relating to elections apply to an
8 election under that section except as otherwise
9 provided by that act. The revised law omits that
10 provision because Section 1.002, Election Code,
11 provides that the Election Code applies to all
12 elections in this state. An exception to the
13 application of the Election Code would apply by its own
14 terms. The omitted law reads:

15 (d) The General Laws relating to
16 elections shall be applicable to elections
17 held under this Section of this law except
18 as otherwise provided in this law.

19 Revised Law

20 Sec. 8509.0305. BONDS PAYABLE FROM REVENUE. (a) In this
21 section, "net revenue" means the district's gross revenue and
22 income from all sources less the amount necessary to pay the cost of
23 maintaining and operating the district and the district's property.

24 (b) Bonds issued under this subchapter may be secured under
25 board resolution by a pledge of:

26 (1) all or part of the district's net revenue;

27 (2) the net revenue of one or more contracts made
28 before or after the issuance of the bonds; or

29 (3) other revenue or income specified by board
30 resolution or in the trust indenture.

31 (c) The pledge may reserve the right to issue additional
32 bonds on a parity with, or subordinate to, the bonds being issued,
33 subject to conditions specified by the pledge. (Acts 63rd Leg.,
34 R.S., Ch. 438, Secs. 20(a) (part), (d).)

35 Source Law

36 (a) . . . the district is empowered to issue

1 . . . bonds to be payable from revenues or . . . as are
2 pledged by resolution of the board. . . .

3 (d) The bonds may be secured by a pledge of all
4 or part of the net revenue of the district, or by the
5 net revenues of any one (1) or more contracts
6 theretofore or thereafter made or other revenue or
7 income specified by resolution of the board or in the
8 trust indenture. Any such pledge may reserve the
9 right, under conditions therein specified, to issue
10 additional bonds which will be on a parity with or
11 subordinate to the bonds then being issued. The term
12 "net revenues" as used in this Section shall mean the
13 gross revenues and income of the district from all
14 sources after deduction of the amount necessary to pay
15 the cost of maintaining and operating the district and
16 its properties.

17 Revised Law

18 Sec. 8509.0306. BONDS PAYABLE FROM AD VALOREM TAXES. The
19 board may issue bonds payable, as pledged by board resolution,
20 from:

21 (1) ad valorem taxes imposed on taxable property in
22 the district; or

23 (2) ad valorem taxes and revenue of the district.
24 (Acts 63rd Leg., R.S., Ch. 438, Secs. 20(a) (part), (e) (part).)

25 Source Law

26 (a) . . . the district is empowered to issue
27 . . . bonds to be payable from . . . taxes or both
28 revenues and taxes of the district as are pledged by
29 resolution of the board. . . .

30 (e) The district is also empowered to issue
31 bonds payable from ad valorem taxes to be levied on all
32 taxable property therein, or to issue bonds secured by
33 and payable from both such taxes and the revenues of
34 the district. . . .

35 Revised Law

36 Sec. 8509.0307. TAX AND RATE REQUIREMENTS. (a) If the
37 district issues bonds payable wholly or partly from ad valorem
38 taxes, the board shall impose an ad valorem tax on the taxable
39 property in the district sufficient to pay the principal of and the
40 interest on the bonds as the bonds and interest become due without
41 limit as to the rate or the amount. The board may adopt the rate of
42 the tax for any year after considering the money received from the
43 pledged revenue available for payment of principal and interest to
44 the extent and in the manner permitted by the resolution
45 authorizing the issuance of the bonds.

1 (b) If the district issues bonds payable wholly or partly
2 from revenue, the board shall set and revise the rates of
3 compensation for water sold and services rendered by the district.

4 (c) For bonds payable wholly from revenue, the rates of
5 compensation must be sufficient to:

6 (1) pay the expense of operating and maintaining the
7 district's facilities;

8 (2) pay the bonds as they mature and the interest as it
9 accrues; and

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

12 (d) For bonds payable partly from revenue, the rates of
13 compensation must be sufficient to assure compliance with the
14 resolution authorizing the issuance of the bonds. (Acts 63rd Leg.,
15 R.S., Ch. 438, Secs. 20(e) (part), (f), 28(h).)

16 Source Law

17 [Sec. 20]

18 (e) . . . Where bonds are issued payable wholly
19 or partially from ad valorem taxes, it shall be the
20 duty of the board to levy a tax sufficient to pay the
21 bonds and the interest thereon as such bonds and
22 interest become due without limit as to the rate or the
23 amount, but the rate of the tax for any year may be
24 fixed after giving consideration to the money received
25 from the pledged revenues which may be available for
26 payment of principal and interest to the extent and in
27 the manner permitted by the resolution authorizing the
28 issuance of the bonds.

29 (f) Where bonds payable wholly from revenues are
30 issued, it shall be the duty of the board to fix, and
31 from time to time to revise, the rates of compensation
32 for water sold and services rendered by the district
33 which will be sufficient to pay the expense of
34 operating and maintaining the facilities of the
35 district and to pay the bonds as they mature and the
36 interest as it accrues and to maintain the reserve and
37 other funds as provided in the resolution authorizing
38 the bonds. Where bonds payable partially from
39 revenues are issued it shall be the duty of the board
40 to fix, and from time to time to revise, the rate of
41 compensation for water sold and services rendered by
42 the district which will be sufficient to assure
43 compliance with the resolution authorizing the bonds.

44 [Sec. 28]

45 (h) If the district issues and delivers bonds
46 payable wholly or partially from ad valorem taxes, the
47 board shall levy and cause to be assessed and collected
48 ad valorem taxes sufficient to pay the interest on and
49 principal of said bonds, without limit as to the rate
50 or the amount.

1 Revisor's Note

2 Section 20(e), Chapter 438, Acts of the 63rd
3 Legislature, Regular Session, 1973, provides that the
4 rate of the ad valorem tax for any year may be "fixed"
5 by the board. The revised law substitutes "adopt" for
6 "fixed" to conform to the terminology used in Section
7 26.05, Tax Code.

8 Revised Law

9 Sec. 8509.0308. ADDITIONAL SECURITY. (a) District bonds,
10 including refunding bonds, that are not payable wholly from ad
11 valorem taxes may be additionally secured, at the board's
12 discretion, by a deed of trust or mortgage lien on the district's
13 physical property and all franchises, easements, water rights and
14 appropriation permits, leases, and contracts and all rights
15 appurtenant to the property, vesting in the trustee power to:

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

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

- 21 (1) is the absolute owner of the property, facilities,
22 and rights purchased; and
23 (2) is entitled to maintain and operate the property,
24 facilities, and rights. (Acts 63rd Leg., R.S., Ch. 438, Sec. 22
25 (part).)

26 Source Law

27 Sec. 22. Any bonds (including refunding bonds)
28 authorized by this law, not payable wholly from ad
29 valorem taxes, Such bonds, within the
30 discretion of the board, may be additionally secured
31 by a deed of trust or mortgage lien upon physical
32 properties of the district and all franchises,
33 easements, water rights and appropriation permits,
34 leases and contracts and all rights appurtenant to
35 such properties vesting in the trustee power to sell
36 the properties for the payment of the indebtedness,
37 power to operate the properties and all other powers
38 and authority for the further security of the bonds.
39 . . . Any purchaser under a sale under the deed of
40 trust lien, where one is given, shall be the absolute
41 owner of the properties, facilities and rights so

1 purchased and shall have the right to maintain and
2 operate the same.

3 Revised Law

4 Sec. 8509.0309. TRUST INDENTURE. (a) District bonds,
5 including refunding bonds, that are not payable wholly from ad
6 valorem taxes may be additionally secured by a trust indenture. The
7 trustee may be a bank with trust powers located inside or outside
8 the state.

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

11 (1) provide for the security of the bonds and the
12 preservation of the trust estate as prescribed by the board;

13 (2) provide for amendment or modification of the trust
14 indenture;

15 (3) provide for the issuance of bonds to replace lost
16 or mutilated bonds;

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

20 (5) provide for the investment of district money.

21 (Acts 63rd Leg., R.S., Ch. 438, Sec. 22 (part).)

22 Source Law

23 Sec. 22. Any bonds (including refunding bonds)
24 authorized by this law, not payable wholly from ad
25 valorem taxes, may be additionally secured by a trust
26 indenture under which the Trustee may be a bank having
27 trust powers situated either within or outside of the
28 State of Texas. . . . Such trust indenture, regardless
29 of the existence of the deed of trust or mortgage lien
30 on the properties may contain any provisions
31 prescribed by the board for the security of the bonds
32 and the preservation of the trust estate, and may make
33 provision for amendment or modification thereof and
34 the issuance of bonds to replace lost or mutilated
35 bonds, and may condition the right to expend district
36 money or sell district property upon approval of a
37 registered professional engineer selected as provided
38 therein, and may make provision for the investment of
39 funds of the district. . . .

40 Revisor's Note

41 Section 22, Chapter 438, Acts of the 63rd
42 Legislature, Regular Session, 1973, refers to a
43 "registered professional engineer." The revised law

1 substitutes "licensed engineer" for the quoted
2 language because under Chapter 1001, Occupations Code,
3 engineers are licensed, not registered.

4 Revised Law

5 Sec. 8509.0310. INTERIM BONDS OR NOTES. Before issuing
6 definitive bonds, the board may issue interim bonds or notes
7 exchangeable for definitive bonds. (Acts 63rd Leg., R.S., Ch. 438,
8 Sec. 20(a) (part).)

9 Source Law

10 (a) . . . Pending the issuance of definitive
11 bonds the board may authorize the delivery of
12 negotiable interim bonds or notes, eligible for
13 exchange or substitution by use of the definitive
14 bonds.

15 Revisor's Note

16 (1) Section 20(a), Chapter 438, Acts of the 63rd
17 Legislature, Regular Session, 1973, refers to
18 "negotiable" interim bonds or notes. The revised law
19 omits "negotiable" for the reason stated in Revisor's
20 Note (2) to Section 8509.0301.

21 (2) Section 20(a), Chapter 438, Acts of the 63rd
22 Legislature, Regular Session, 1973, refers to bonds or
23 notes "eligible for exchange or substitution." The
24 revised law substitutes "exchangeable" for the quoted
25 language because, in context, "substitution" is
26 included in the meaning of "exchange."

27 Revised Law

28 Sec. 8509.0311. USE OF BOND PROCEEDS. (a) The district may
29 set aside an amount of proceeds from the sale of bonds issued under
30 this subchapter for the payment of interest expected to accrue
31 during construction and a reserve interest and sinking fund. The
32 resolution authorizing the bonds may provide for setting aside and
33 using the proceeds as provided by this subsection.

34 (b) The district may use proceeds from the sale of the bonds
35 to pay any expense necessarily incurred in accomplishing the
36 district's purpose, including any expense of issuing and selling

1 the bonds.

2 (c) The proceeds from the sale of the bonds may be
3 temporarily invested in direct obligations of the United States
4 maturing not later than the first anniversary of the date of
5 investment. (Acts 63rd Leg., R.S., Ch. 438, Sec. 20(g).)

6 Source Law

7 (g) From the proceeds from the sale of the
8 bonds, the district may set aside an amount for the
9 payment of interest expected to accrue during
10 construction and a reserve interest and sinking fund,
11 and such provision may be made in the resolution
12 authorizing the bonds. Proceeds from the sale of the
13 bonds may also be used for the payment of all expenses
14 necessarily incurred in accomplishing the purpose for
15 which this district is created, including expenses of
16 issuing and selling the bonds. The proceeds from the
17 sale of the bonds may be temporarily invested in direct
18 obligations of the United States Government maturing
19 in not more than one (1) year from the date of
20 investment.

21 Revised Law

22 Sec. 8509.0312. APPOINTMENT OF RECEIVER. (a) On default or
23 threatened default in the payment of principal of or interest on
24 bonds issued under this subchapter that are payable wholly or
25 partly from revenue, a court may, on petition of the holders of
26 outstanding bonds, appoint a receiver for the district.

27 (b) The receiver may collect and receive all district income
28 except taxes, employ and discharge district agents and employees,
29 take charge of money on hand, except money received from taxes,
30 unless commingled, and manage the district's proprietary affairs
31 without the consent of or hindrance by the board.

32 (c) The receiver may be authorized to sell or contract for
33 the sale of water or to renew those contracts with the approval of
34 the court that appointed the receiver.

35 (d) The court may vest the receiver with any other power or
36 duty the court finds necessary to protect the bondholders. (Acts
37 63rd Leg., R.S., Ch. 438, Sec. 20(h) (part).)

38 Source Law

39 (h) In the event of a default or a threatened
40 default in the payment of principal or of interest on
41 bonds payable wholly or partially from revenues, any
42 court of competent jurisdiction may, upon petition of

1 the holders of outstanding bonds, appoint a receiver
2 with authority to collect and receive all income of the
3 district except taxes, employ and discharge agents and
4 employees of the district, take charge of funds on hand
5 (except funds received from taxes unless commingled)
6 and manage the proprietary affairs of the district
7 without consent or hindrance by the directors. Such
8 receiver may also be authorized to sell or make
9 contracts for the sale of water or renew such contracts
10 with the approval of the court appointing him. The
11 court may vest the receiver with such other powers and
12 duties as the court may find necessary for the
13 protection of the holders of the bonds. . . .

14 Revisor's Note

15 Section 20(h), Chapter 438, Acts of the 63rd
16 Legislature, Regular Session, 1973, refers to a court
17 "of competent jurisdiction." The revised law omits
18 the quoted language because the general laws of civil
19 jurisdiction determine which courts have "competent
20 jurisdiction" over a matter. For example, see Section
21 24.003, Government Code, for the jurisdiction of
22 certain district courts to appoint receivers.

23 Revised Law

24 Sec. 8509.0313. REFUNDING BONDS. (a) The district may
25 issue refunding bonds to refund outstanding bonds issued under
26 this subchapter and interest on those bonds.

27 (b) Refunding bonds may:

- 28 (1) be issued to refund bonds of more than one series;
29 (2) combine the pledges for the outstanding bonds for
30 the security of the refunding bonds; or
31 (3) be secured by a pledge of other or additional
32 revenue or mortgage liens.

33 (c) The provisions of this subchapter regarding the
34 issuance of other bonds, their security, and the remedies of the
35 holders apply to refunding bonds.

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

38 (e) Instead of issuing bonds to be registered on the
39 surrender and cancellation of the bonds to be refunded, the
40 district, in the resolution authorizing the issuance of the

1 refunding bonds, may provide for the sale of the refunding bonds and
2 the deposit of the proceeds in a bank at which the bonds to be
3 refunded are payable. In that case, the refunding bonds may be
4 issued in an amount sufficient to pay the principal of and interest
5 on the bonds to be refunded to their option date or maturity date,
6 and the comptroller shall register the refunding bonds without the
7 surrender and cancellation of the bonds to be refunded. (Acts 63rd
8 Leg., R.S., Ch. 438, Sec. 21.)

9 Source Law

10 Sec. 21. The district is authorized to issue
11 refunding bonds for the purpose of refunding any
12 outstanding bonds authorized by this Act and interest
13 thereon. Such refunding bonds may be issued to refund
14 more than one (1) series of outstanding bonds and
15 combine the pledges for the outstanding bonds for the
16 security of the refunding bonds, and may be secured by
17 other or additional revenues and mortgage liens. The
18 provisions of this law with reference to the issuance
19 by the district of other bonds, their security, and
20 their approval by the Attorney General and the
21 remedies of the holders shall be applicable to
22 refunding bonds. Refunding bonds shall be registered
23 by the Comptroller upon surrender and cancellation of
24 the bonds to be refunded, but in lieu thereof, the
25 resolution authorizing their issuance may provide that
26 they shall be sold and the proceeds thereof deposited
27 in the bank where the original bonds are payable, in
28 which case the refunding bonds may be issued in an
29 amount sufficient to pay the principal of and the
30 interest on the original bonds to their option date or
31 maturity date, and the Comptroller shall register them
32 without concurrent surrender and cancellation of the
33 original bonds.

34 Revisor's Note

35 Section 21, Chapter 438, Acts of the 63rd
36 Legislature, Regular Session, 1973, refers to the
37 "approval by the Attorney General" of refunding bonds.
38 The revised law omits the quoted language because it is
39 superseded by Section 1202.003, Government Code,
40 enacted in 1987 as Section 3.002(a), Chapter 53, Acts
41 of the 70th Legislature, 2nd Called Session (Article
42 717k-8, Vernon's Texas Civil Statutes), which provides
43 for approval of public securities by the attorney
44 general. That section applies to bonds issued by the
45 district by application of Section 1202.001,

1 Government Code.

2 Revised Law

3 Sec. 8509.0314. LIMITATION ON RIGHTS OF BONDHOLDERS. The
4 resolution authorizing the bonds or the trust indenture securing
5 the bonds may limit or qualify the rights of the holders of less
6 than all of the outstanding bonds payable from the same source to
7 institute or prosecute litigation affecting the district's
8 property or income. (Acts 63rd Leg., R.S., Ch. 438, Sec. 20(h)
9 (part).)

10 Source Law

11 (h) . . . The resolution authorizing the
12 issuance of the bonds or the trust indenture securing
13 the bonds may limit or qualify the rights of the
14 holders of less than all of the outstanding bonds
15 payable from the same source to institute or prosecute
16 any litigation affecting the district's property or
17 income.

18 Revised Law

19 Sec. 8509.0315. BONDS EXEMPT FROM TAXATION. A district
20 bond, the transfer of the bond, and the income from the bond,
21 including profits made on the sale of the bond, are exempt from
22 taxation in this state. (Acts 63rd Leg., R.S., Ch. 438, Sec. 26
23 (part).)

24 Source Law

25 Sec. 26. . . . the bonds issued hereunder and
26 their transfer and the income therefrom, including the
27 profits made on the sale thereof, shall at all times be
28 free from taxation within this state.

29 Revisor's Note
30 (End of Subchapter)

31 (1) Section 20(b), Chapter 438, Acts of the 63rd
32 Legislature, Regular Session, 1973, provides that
33 district bonds may be sold at a price and under terms
34 that the board determines to be the most advantageous
35 reasonably obtainable. The revised law omits that
36 provision because it duplicates or is superseded by
37 provisions of general law. Section 1204.006(b),
38 Government Code, provides that an issuer may sell
39 public securities at any price. That section reflects

1 the amendment of Chapter 3, Acts of the 61st
2 Legislature, Regular Session, 1969 (Article 717k-2,
3 Vernon's Texas Civil Statutes), now Chapter 1204,
4 Government Code, by Section 1, Chapter 61, Acts of the
5 67th Legislature, Regular Session, 1981. Section
6 1204.006(b) applies to district bonds by application
7 of Sections 1204.001 and 1204.002, Government Code.
8 Section 1201.022, Government Code, as amended by
9 Section 1, Chapter 769, Acts of the 77th Legislature,
10 Regular Session, 2001, provides that an issuer may
11 sell public securities "under the terms determined by
12 the governing body of the issuer to be in the issuer's
13 best interests." The omitted law reads:

14 (b) . . . [bonds] . . . may be sold
15 at a price and under terms determined by the
16 board to be the most advantageous
17 reasonably obtainable and

18 (2) Section 20(b), Chapter 438, Acts of the 63rd
19 Legislature, Regular Session, 1973, provides that
20 district bonds may be called, or redeemed, before
21 maturity at the time and price specified in the
22 resolution authorizing the bonds. The revised law
23 omits that provision because it duplicates Sections
24 1201.021 and 1201.022, Government Code, which provide
25 that a public security may be redeemed before maturity
26 and be payable in specified amounts and at specified
27 times. The omitted law reads:

28 (b) . . . [bonds] . . . within the
29 discretion of the board may be made callable
30 prior to maturity at such times and prices
31 as may be prescribed in the resolution
32 authorizing the bonds, and

33 (3) Section 20(b), Chapter 438, Acts of the 63rd
34 Legislature, Regular Session, 1973, provides that
35 district bonds may be made registrable as to principal
36 or as to principal and interest. The revised law omits
37 that provision because it duplicates Section

1 1201.024(a)(3), Government Code. The omitted law
2 reads:

3 (b) . . . [bonds] . . . may be made
4 registrable as to principal or as to both
5 principal and interest.

6 (4) Section 20(i), Chapter 438, Acts of the 63rd
7 Legislature, Regular Session, 1973, requires the
8 district to secure approval from the Texas Commission
9 on Environmental Quality in the manner provided by
10 Section 51.421, Water Code, before issuing bonds for
11 improvements. Chapter 715, Acts of the 74th
12 Legislature, Regular Session, 1995, repealed Section
13 51.421, Water Code, and enacted Section 49.181, Water
14 Code, to govern the authority of the commission over
15 the issuance of district bonds. A reference to Section
16 49.181, Water Code, is unnecessary because that
17 section applies to the district under Sections 49.001
18 and 49.002, Water Code, without an express reference
19 to that section in this chapter. The omitted law
20 reads:

21 (i) Before the district shall issue
22 any bonds for improvements authorized
23 herein, it shall secure prior approval from
24 the commission in the manner provided by
25 Section 51.421, Texas Water Code.

26 (5) Section 24, Chapter 438, Acts of the 63rd
27 Legislature, Regular Session, 1973, requires the
28 district to deliver bonds it issues to the attorney
29 general for examination and approval. Section 24 also
30 requires the attorney general to approve district
31 bonds if the bonds were authorized under law. In
32 addition, Section 24 provides that after approval the
33 bonds must be registered with the comptroller and that
34 after approval and registration the bonds are
35 incontestable. The revised law omits those provisions
36 as superseded by Chapter 1202, Government Code
37 (enacted as Article 3, Chapter 53, Acts of the 70th

1 Legislature, 2nd Called Session, 1987). Section
2 1202.003, Government Code, provides for approval of
3 the bonds by the attorney general and requires the
4 attorney general to submit the approved bonds to the
5 comptroller for registration. Section 1202.005,
6 Government Code, requires registration of the bonds by
7 the comptroller. Section 1202.006, Government Code,
8 provides that after approval and registration the
9 bonds are incontestable and binding obligations.
10 Chapter 1202, Government Code, applies to district
11 bonds by application of Sections 1202.001 and
12 1202.003(c), Government Code. The omitted law reads:

13 Sec. 24. After any bonds (including
14 refunding bonds) are authorized by the
15 district, such bonds and the record
16 relating to their issuance shall be
17 submitted to the Attorney General for
18 examination as to the validity
19 thereof. . . . If such bonds have been
20 authorized and . . . in accordance with the
21 Constitution and laws of the State of Texas
22 the Attorney General shall approve the
23 bonds and . . . the bonds then shall be
24 registered by the Comptroller of Public
25 Accounts. Thereafter the bonds, and . . .
26 shall be valid and binding and shall be
27 incontestable for any cause.

28 (6) Section 24, Chapter 438, Acts of the 63rd
29 Legislature, Regular Session, 1973, details various
30 procedures regarding approval of bond contracts and
31 proceedings by the attorney general. The revised law
32 omits the portion of Section 24 regarding the validity
33 and incontestability of a contract the proceeds of
34 which are pledged to the payment of a bond as impliedly
35 repealed by Section 1202.006, Government Code (enacted
36 as Section 3.002(d), Chapter 53, Acts of the 70th
37 Legislature, 2nd Called Session, 1987). Section
38 1202.006, Government Code, provides that after
39 approval and registration of the bond, the bond and
40 contract are not contestable for any reason. Section
41 1202.006 applies to district bonds by application of

1 Sections 1202.001 and 1202.003(c), Government Code.

2 The omitted law reads:

3 Sec. 24. . . . Where such bonds
4 recite that they are secured by a pledge of
5 the proceeds of a contract theretofore made
6 between the district and any city or other
7 governmental agency, authority or district,
8 a copy of such contract and the proceedings
9 of the city or other governmental agency,
10 authority or district authorizing such
11 contract shall also be submitted to the
12 Attorney General. . . . if such contracts
13 have been made [in accordance with the
14 Constitution and laws of the State of Texas
15 the Attorney General shall approve] . . .
16 such contracts and [Thereafter]
17 . . . the contracts, if any, [shall be valid
18 and . . . shall be incontestable for any
19 cause.]

20 (7) Section 25, Chapter 438, Acts of the 63rd
21 Legislature, Regular Session, 1973, lists the entities
22 for which district bonds are legal investments and
23 provides that district bonds may secure deposits of
24 public funds of the state or political subdivisions.
25 The revised law omits the provision relating to the
26 eligibility of district bonds to be considered as
27 investments for various entities because it
28 duplicates, in substance, Section 49.186(a), Water
29 Code. While Section 25 lists "guardians" and Section
30 49.186(a), Water Code, does not, Section 49.186(a)
31 includes "fiduciaries," and a guardian is a fiduciary.
32 The revised law omits the provision relating to the use
33 of district bonds as security for deposits of state
34 funds as impliedly repealed by Section 404.0221,
35 Government Code (enacted in 1995), which lists
36 eligible collateral for deposits of state funds by the
37 comptroller, and by Section 404.031, Government Code
38 (enacted in 1985 as Section 3.001, Article 4393-1,
39 Vernon's Texas Civil Statutes), which provides for the
40 valuation of that collateral. As to securing deposits
41 of other funds, the provision is impliedly repealed by
42 Chapter 2257, Government Code (enacted in 1989 as

1 Article 2529d, Vernon's Texas Civil Statutes), which
2 governs eligible collateral for deposits of funds of
3 other public agencies, including political
4 subdivisions, and permits those deposits to be secured
5 by obligations issued by conservation and reclamation
6 districts. The omitted law reads:

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

29 Revisor's Note
30 (End of Chapter)

31 (1) Section 16, Chapter 438, Acts of the 63rd
32 Legislature, Regular Session, 1973, provides that the
33 board is not required to call a confirmation election
34 or hold a hearing on the exclusion of land. The
35 revised law omits the provision as executed. The
36 provision is a transition provision addressing the
37 applicability of provisions of the general law in
38 effect at the time of the district's creation that
39 would have required the district to hold both a
40 confirmation election and a hearing on the exclusion
41 of land. The omitted provision negates those general
42 law requirements as inapplicable to this legislatively
43 created district. The power or duty to hold a hearing
44 to exclude land subsequent to the creation of the
45 district is governed by Subchapter J, Chapter 49,

1 Water Code, which applies to the district under
2 Sections 49.001 and 49.002 of that code. The omitted
3 law reads:

4 Sec. 16. [It shall not be necessary
5 for the board] to call a confirmation
6 election or [to hold] a hearing on the
7 exclusion of lands or

8 (2) Section 31, Chapter 438, Acts of the 63rd
9 Legislature, Regular Session, 1973, and Section 8,
10 Chapter 115, Acts of the 64th Legislature, Regular
11 Session, 1975, provide that the act is severable. The
12 revised law omits that provision because the same
13 result is produced by application of Section 311.032,
14 Government Code (Code Construction Act), which states
15 that a provision of a statute is severable from each
16 other provision of the statute that can be given
17 effect. The omitted law reads:

18 [Acts 63rd Leg., R.S., Ch. 438]

19 Sec. 31. . . . If any provision of
20 the Act shall be invalid, such fact shall
21 not affect the creation of the Authority or
22 the validity of any other provision of this
23 Act, and the Legislature here declares that
24 it would have created the Authority and
25 enacted the valid provisions of this Act
26 notwithstanding the invalidity of any other
27 provision or provisions hereof.

28 [Acts 64th Leg., R.S., Ch. 115]

29 Sec. 8. In case any one or more of the
30 sections, provisions, clauses, or words of
31 this Act, or the application thereof to any
32 situation or circumstance, shall for any
33 reason be held to be invalid or
34 unconstitutional, such invalidity or
35 unconstitutionality shall not affect any
36 other sections, provisions, clauses, or
37 words of this Act, or the application
38 thereof to any other situation or
39 circumstance, and it is intended that this
40 Act shall be severable and shall be
41 construed and applied as if any such invalid
42 or unconstitutional section, provision,
43 clause, or word has not been included
44 herein.

45 (3) Sections 6 and 7, Chapter 115, Acts of the
46 64th Legislature, Regular Session, 1975, and Sections
47 2 and 3, Chapter 651, Acts of the 70th Legislature,
48 Regular Session, 1987, validate certain actions of the

1 district or the board. Those provisions are omitted
2 from the revised law because they served their
3 purposes on the day they took effect and are executed
4 law. Section 311.031(a)(2), Government Code (Code
5 Construction Act), provides that the repeal of a
6 statute does not affect any validation previously made
7 under the statute. Therefore, the omission of the
8 executed validation provision does not affect the
9 validation. The omitted law reads:

10 [Acts 64th Leg., R.S., Ch. 115]

11 Sec. 6. The organization proceedings
12 and maintenance tax election of the Palo
13 Duro River Authority of Texas are hereby
14 validated in all respects.

15 Sec. 7. This Act shall have no
16 application to litigation now pending in
17 any court of competent jurisdiction in the
18 State.

19 [Acts 70th Leg., R.S., Ch. 651]

20 Sec. 2. All resolutions, orders, and
21 other acts or attempted acts of the board of
22 directors of the district, together with
23 all annexations by the district and
24 annexation elections, and all proceedings
25 of the district, authorizing the issuance
26 of bonds of the district, including voted
27 but unissued bonds of the district, bond
28 elections, and the bond taxes voted for
29 those bonds, and all contracts are
30 validated in all respects. All the
31 resolutions, orders, and other acts or
32 attempted acts of the board of directors of
33 the district, annexations, all proceedings
34 of the district, the district's bonds, bond
35 elections, bond taxes, pledged revenues,
36 and contracts are valid as though they had
37 originally been legally authorized or
38 accomplished.

39 Sec. 3. This Act does not apply to or
40 affect litigation now pending in any court
41 of competent jurisdiction in this state to
42 which the district is a party.

43 (4) Section 5, Chapter 17, Acts of the 68th
44 Legislature, Regular Session, 1983, provides
45 transition procedures related to suits against the
46 district. The revised law omits that provision as
47 executed. The omitted law reads:

48 Sec. 5. This Act applies only to
49 suits against the Palo Duro River Authority
50 filed on or after the effective date of this
51 Act. A suit filed before the effective date

1 of this Act is governed by the law in effect
2 at the time the suit was filed.

3 (5) Section 13, Chapter 1046, Acts of the 85th
4 Legislature, Regular Session, 2017, recites
5 legislative findings regarding procedural
6 requirements for legislation affecting the district
7 under the constitution and other laws and rules,
8 including proper legal notice and the filing of
9 recommendations. The revised law omits those
10 provisions as executed. The omitted law reads:

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

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

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

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

37 SUBTITLE H. DISTRICTS GOVERNING GROUNDWATER

38 CHAPTER 8893. LIVE OAK UNDERGROUND WATER CONSERVATION DISTRICT

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8 CHAPTER 8893. LIVE OAK UNDERGROUND WATER CONSERVATION DISTRICT

9 SUBCHAPTER A. GENERAL PROVISIONS

10 Revised Law

11 Sec. 8893.0001. DEFINITIONS. In this chapter:

- 12 (1) "Board" means the district's board of directors.
- 13 (2) "Director" means a board member.
- 14 (3) "District" means the Live Oak Underground Water

15 Conservation District. (Acts 71st Leg., R.S., Ch. 715, Sec. 2;
16 New.)

17 Source Law

18 Sec. 2. In this Act, "district" means the Live
19 Oak Underground Water Conservation District.

20 Revisor's Note

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

25 Revised Law

26 Sec. 8893.0002. NATURE OF DISTRICT. The district is
27 created to provide for the conservation, preservation, protection,
28 recharge, and prevention of waste of the groundwater reservoirs
29 located under district land, consistent with the objectives of
30 Section 59, Article XVI, Texas Constitution, and Chapter 36, Water
31 Code. (Acts 71st Leg., R.S., Ch. 715, Sec. 4.)

32 Source Law

33 Sec. 4. The district is created to provide for
34 the conservation, preservation, protection, recharge,
35 and prevention of waste of the underground water
36 reservoirs located under district land consistent with

1 the objectives of Article XVI, Section 59, of the Texas
2 Constitution and Chapter 36, Water Code.

3 Revisor's Note

4 Section 4, Chapter 715, Acts of the 71st
5 Legislature, Regular Session, 1989, refers to
6 "underground water." Throughout this chapter, the
7 revised law substitutes "groundwater" for the quoted
8 language to conform to the term used in Chapter 36,
9 Water Code.

10 Revised Law

11 Sec. 8893.0003. DISTRICT TERRITORY. The district includes
12 the territory in Live Oak County unless the district's territory
13 has been modified under:

- 14 (1) Subchapter J or K, Chapter 36, Water Code; or
15 (2) other law. (Acts 71st Leg., R.S., Ch. 715, Sec. 3;
16 New.)

17 Source Law

18 Sec. 3. The district includes all of the
19 territory located in Live Oak County.

20 Revisor's Note

21 Section 3, Chapter 715, Acts of the 71st
22 Legislature, Regular Session, 1989, contains a
23 description of the territory of the district. That
24 description may not be accurate on the effective date
25 of the revised law or at the time of a later reading
26 because the district's boundaries are subject to
27 change. For the reader's convenience, the revised law
28 adds references to the authority to change the
29 district's territory under Subchapter J or K, Chapter
30 36, Water Code, applicable to groundwater conservation
31 districts, and to the general authority of the
32 legislature to enact other laws under which the
33 district's territory may change.

34 Revised Law

35 Sec. 8893.0004. CONFLICTS OF LAW. (a) This section applies

1 only to a provision of Chapter 36, Water Code, enacted on or before
2 June 12, 2017.

3 (b) If there is a conflict between this chapter and Chapter
4 36, Water Code, this chapter controls. (Acts 71st Leg., R.S., Ch.
5 715, Sec. 13; New.)

6 Source Law

7 Sec. 13. If there is a conflict between this Act
8 and Chapter 36, Water Code, this Act controls.

9 Revisor's Note

10 Section 13, Chapter 715, Acts of the 71st
11 Legislature, Regular Session, 1989, provides that, in
12 case of a conflict between that Act and Chapter 36,
13 Water Code, the Act prevails. The revised law limits
14 the application of Section 13 to provisions of Chapter
15 36 enacted on or before the date the last amendment of
16 Section 13 took effect (June 12, 2017) to avoid making
17 a substantive change in the interpretation of
18 conflicts between Chapter 36, Water Code, and Chapter
19 715.

20 Three different laws potentially govern the
21 relationship between Chapter 715 and the general laws
22 in Chapter 36, Water Code: Section 13, Chapter 715;
23 Section 311.026, Government Code (Code Construction
24 Act); and Section 36.052, Water Code. Section 311.026,
25 Government Code (enacted in 1985), provides that if
26 there is a conflict between a general provision of law
27 and a special provision, the special provision
28 prevails unless the general provision is the later
29 enactment and the manifest intent is that the general
30 provision prevail. Section 36.052, Water Code (enacted
31 in 1997), provides that certain provisions of Chapter
32 36 prevail over a conflicting or inconsistent
33 provision of a special law.

34 Under Section 312.014, Government Code, if

1 statutes are irreconcilable, the statute latest in
2 date of enactment prevails. Therefore, to preserve
3 the date of enactment of Section 13, Chapter 715, for
4 the purposes of interpreting the interaction of
5 Section 13, Chapter 715, Section 311.026, Government
6 Code, and Section 36.052, Water Code, the revised law
7 adds a reference to the effective date of Section 13,
8 Chapter 715 (June 12, 2017).

9 SUBCHAPTER B. BOARD OF DIRECTORS

10 Revised Law

11 Sec. 8893.0051. COMPOSITION OF BOARD; TERMS. (a) The
12 district is governed by a board of five directors.

13 (b) Directors serve staggered four-year terms. (Acts 71st
14 Leg., R.S., Ch. 715, Secs. 12(a), (d).)

15 Source Law

16 Sec. 12. (a) The district shall be governed by
17 a board of directors that consists of five directors.

18 (d) Directors serve staggered four-year terms.

19 Revised Law

20 Sec. 8893.0052. ELECTION OF DIRECTORS. One director is
21 elected from each county commissioners precinct in Live Oak County.
22 One director is elected from the district at large. (Acts 71st Leg.,
23 R.S., Ch. 715, Sec. 12(c) (part).)

24 Source Law

25 (c) One director shall be elected from each
26 county commissioner precinct in Live Oak County, and
27 one director shall be elected from the district at
28 large. . . .

29 Revised Law

30 Sec. 8893.0053. ELECTION OF DIRECTORS AFTER ANNEXATION.
31 The board shall determine to which precinct annexed land will be
32 added for purposes of election of directors. (Acts 71st Leg., R.S.,
33 Ch. 715, Sec. 11.)

34 Source Law

35 Sec. 11. The board of directors shall determine
36 to which precinct annexed land will be added for
37 purposes of election of directors.

1 Revised Law

2 Sec. 8893.0054. ELECTION DATE. The district shall hold an
3 election to elect the appropriate number of directors in each
4 even-numbered year. (Acts 71st Leg., R.S., Ch. 715, Sec. 12(e).)

5 Source Law

6 (e) The district shall hold an election in each
7 even-numbered year to elect the appropriate number of
8 directors.

9 Revised Law

10 Sec. 8893.0055. QUALIFICATIONS FOR OFFICE. (a) To be
11 qualified for election as a director, a person must be:

12 (1) a resident of the district; and

13 (2) at least 18 years of age.

14 (b) To represent a commissioner precinct, a person must be a
15 resident of the precinct. (Acts 71st Leg., R.S., Ch. 715, Secs.
16 12(b), (c) (part).)

17 Source Law

18 (b) To be qualified for election as a director,
19 a person must be a resident of the district and be at
20 least 18 years of age.

21 (c) . . . To represent a commissioner precinct,
22 the director must be a resident of the precinct.

23 SUBCHAPTER C. POWERS AND DUTIES

24 Revised Law

25 Sec. 8893.0101. GENERAL POWERS AND DUTIES. The district
26 has:

27 (1) the powers essential to accomplish the purposes of
28 Section 59, Article XVI, Texas Constitution; and

29 (2) the rights, powers, duties, privileges, and
30 functions provided by Chapter 36, Water Code, and other laws of this
31 state relating to groundwater conservation districts. (Acts 71st
32 Leg., R.S., Ch. 715, Secs. 1, 5.)

33 Source Law

34 Sec. 1. Under Article XVI, Section 59, of the
35 Texas Constitution, the Live Oak Underground Water
36 Conservation District has the powers essential to the
37 accomplishment of the purposes of that constitutional
38 provision and the rights, powers, duties, privileges,
39 and functions provided by Chapter 36, Water Code, and
40 by other laws of this state relating to underground

1 water conservation districts.

2 Sec. 5. The district has the powers, rights,
3 duties, privileges, and functions permitted by Chapter
4 36, Water Code.

5 Revised Law

6 Sec. 8893.0102. ADMINISTRATIVE PROCEDURES. Except as
7 otherwise provided by this chapter, the administrative and
8 procedural provisions of Chapter 36, Water Code, apply to the
9 district. (Acts 71st Leg., R.S., Ch. 715, Sec. 6.)

10 Source Law

11 Sec. 6. Except as provided by this Act, the
12 administrative and procedural provisions of Chapter
13 36, Water Code, apply to the district.

14 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

15 Revised Law

16 Sec. 8893.0151. TAX AND BOND PROVISIONS. (a) Except as
17 provided by Subsection (b), the tax and bond provisions of
18 Subchapters F and G, Chapter 36, Water Code, apply to the district.

19 (b) Notwithstanding Section 36.201(b), Water Code, the
20 district may annually levy taxes to pay the maintenance and
21 operating expenses of the district at a rate not to exceed five
22 cents on each \$100 of assessed valuation. (Acts 71st Leg., R.S., Ch.
23 715, Sec. 9.)

24 Source Law

25 Sec. 9. (a) Except as provided by Subsection
26 (b) of this section, the tax and bond provisions of
27 Subchapters F and G, Chapter 36, Water Code, apply to
28 the district.

29 (b) Notwithstanding Section 36.201(b), Water
30 Code, the district annually may levy taxes to pay the
31 maintenance and operating expenses of the district at
32 a rate not to exceed five cents on each \$100 of
33 assessed valuation.

34 Revisor's Note
35 (End of Chapter)

36 (1) Section 10, Chapter 715, Acts of the 71st
37 Legislature, Regular Session, 1989, provides that
38 Subchapter I, Chapter 36, Water Code, applies to the
39 district. The revised law omits that provision as
40 unnecessary because Chapter 36, Water Code, applies to
41 the district under Section 8893.0101 of this chapter

1 and Section 36.001(1), Water Code. The omitted law
2 reads:

3 Sec. 10. Subchapter I, Chapter 36,
4 Water Code, applies to dissolution of the
5 district.

6 (2) Section 1, Chapter 305, Acts of the 73rd
7 Legislature, Regular Session, 1993, defines
8 "district" as the Brush Country Underground Water
9 Conservation District for the purposes of Chapter 305.
10 The sections of Chapter 305 in which the definition of
11 "district" is used (Sections 2, 4, and 5) are omitted
12 from the revised law, as explained in Revisor's Notes
13 (3), (4), and (5). Therefore, the revised law omits
14 that definition as unnecessary. The omitted law
15 reads:

16 Sec. 1. In this Act, "district" means
17 the Brush Country Underground Water
18 Conservation District.

19 (3) Section 2, Chapter 305, Acts of the 73rd
20 Legislature, Regular Session, 1993, validates certain
21 actions by the district. The revised law omits the
22 validation because it served its purpose on the date it
23 took effect and is executed law. Section
24 311.031(a)(2), Government Code, (Code Construction
25 Act), provides that the repeal of a statute does not
26 affect any validation previously made under the
27 statute. Therefore, the omission of the executed
28 validation provision does not affect the validation.
29 The omitted law reads:

30 Sec. 2. All resolutions, orders, and
31 other acts or attempted acts of the board of
32 directors of the district, including the
33 calling and holding of the confirmation and
34 directors election and of the directors
35 election held on May 1, 1993, the canvassing
36 of the returns, declaring the results of the
37 elections, and the organization of the
38 board, are validated in all respects. All
39 resolutions, orders, acts or attempted acts
40 of the board of directors of the district,
41 including the calling and holding of the
42 confirmation and directors election and of

1 the directors election held on May 1, 1993,
2 the canvassing of the returns, declaring
3 the results of the elections, and the
4 organization of the board, are valid as
5 though they were originally legally
6 authorized or accomplished.

7 (4) Section 4, Chapter 305, Acts of the 73rd
8 Legislature, Regular Session, 1993, provides that
9 Chapter 305 does not apply to certain matters being
10 litigated on the effective date of Chapter 305. The
11 revised law omits the provision as executed and
12 because Sections 311.031(a)(1) and (2), Government
13 Code (Code Construction Act), provide that the repeal
14 of a statute does not affect the prior operation of a
15 statute or any validation, cure, right, privilege,
16 obligation, or liability acquired, accrued, accorded,
17 or incurred under the statute. The omitted law reads:

18 Sec. 4. This Act does not apply to or
19 affect litigation now pending in any court
20 of competent jurisdiction in this state to
21 which the district is a party.

22 (5) Section 5(a), Chapter 305, Acts of the 73rd
23 Legislature, Regular Session, 1993, provides that a
24 "power, duty, right, or obligation" of the district is
25 not affected by the district's name change. The
26 revised law omits that subsection for the reason
27 stated in Revisor's Note (4). The omitted law reads:

28 Sec. 5. (a) The change in name of the
29 Brush Country Underground Water
30 Conservation District made by this Act does
31 not affect a power, duty, right, or
32 obligation of the Brush Country Underground
33 Water Conservation District. A power, duty,
34 right, or obligation of the district under
35 that name is a power, duty, right, or
36 obligation of the Live Oak Underground
37 Water Conservation District on the
38 effective date of this Act.

39 (6) Sections 5(b) and (c), Chapter 305, Acts of
40 the 73rd Legislature, Regular Session, 1993, describe
41 transition procedures for directors' elections for
42 directors elected in 1993. The revised law omits those
43 provisions as executed. The omitted law reads:

1 (b) Directors elected from precincts
2 2 and 4 in the May 1, 1993, election serve
3 until their successors qualify and take
4 office after the regularly scheduled
5 election in 1994, as provided by Section
6 12(e), Chapter 715, Acts of the 71st
7 Legislature, Regular Session, 1989.

8 (c) Directors elected from precincts
9 1 and 3 and the director elected at large in
10 the May 1, 1993, election serve until their
11 successors qualify and take office after
12 the regularly scheduled election in 1996,
13 as provided by Section 12(e), Chapter 715,
14 Acts of the 71st Legislature, Regular
15 Session, 1989.

16 (7) Section 5, Chapter 653, Acts of the 85th
17 Legislature, Regular Session, 2017, recites
18 legislative findings regarding procedural
19 requirements for legislation affecting the district
20 under the constitution and other laws and rules,
21 including proper legal notice and the filing of
22 recommendations. The revised law omits those
23 provisions as executed. The omitted law reads:

24 Sec. 5. (a) The legal notice of the
25 intention to introduce this Act, setting
26 forth the general substance of this Act, has
27 been published as provided by law, and the
28 notice and a copy of this Act have been
29 furnished to all persons, agencies,
30 officials, or entities to which they are
31 required to be furnished under Section 59,
32 Article XVI, Texas Constitution, and
33 Chapter 313, Government Code.

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

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

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

50 CHAPTER 8894. HEMPHILL COUNTY UNDERGROUND WATER CONSERVATION

51 DISTRICT

52 SUBCHAPTER A. GENERAL PROVISIONS

53 Sec. 8894.0001. DEFINITIONS 329
54 Sec. 8894.0002. NATURE OF DISTRICT 329

1 Sec. 8894.0003. FINDINGS OF PUBLIC USE AND BENEFIT 330
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3 SUBCHAPTER B. BOARD OF DIRECTORS
4 Sec. 8894.0051. COMPOSITION OF BOARD; TERMS 331
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6 SUBCHAPTER C. POWERS AND DUTIES
7 Sec. 8894.0101. GENERAL POWERS AND DUTIES 333
8 Sec. 8894.0102. NO EMINENT DOMAIN POWER 334
9 CHAPTER 8894. HEMPHILL COUNTY UNDERGROUND WATER CONSERVATION

10 DISTRICT

11 SUBCHAPTER A. GENERAL PROVISIONS

12 Revised Law

13 Sec. 8894.0001. DEFINITIONS. In this chapter:

- 14 (1) "Board" means the district's board of directors.
- 15 (2) "Director" means a board member.
- 16 (3) "District" means the Hemphill County Underground

17 Water Conservation District. (Acts 74th Leg., R.S., Ch. 157, Secs.
18 1(a) (part), 2; New.)

19 Source Law

20 Sec. 1. (a) [An underground water conservation
21 district,] to be known as the Hemphill County
22 Underground Water Conservation District, [is created]
23

24 Sec. 2. In this Act, "district" means the
25 Hemphill County Underground Water Conservation
26 District.

27 Revisor's Note

28 The definitions of "board" and "director" are
29 added to the revised law for drafting convenience and
30 to eliminate frequent, unnecessary repetition of the
31 substance of the definitions.

32 Revised Law

33 Sec. 8894.0002. NATURE OF DISTRICT. The district is a
34 groundwater conservation district in Hemphill County created under
35 and essential to accomplish the purposes of Section 59, Article
36 XVI, Texas Constitution. (Acts 74th Leg., R.S., Ch. 157, Secs. 1(a)
37 (part), (b).)

1 Source Law

2 Sec. 1. (a) An underground water conservation
3 district, . . . is created in Hemphill County.

4 (b) The district is created under and is
5 essential to accomplish the purposes of Section 59,
6 Article XVI, Texas Constitution.

7 Revisor's Note

8 Section 1(a), Chapter 157, Acts of the 74th
9 Legislature, Regular Session, 1995, refers to the
10 district as an "underground water conservation
11 district." Throughout this chapter, the revised law
12 substitutes "groundwater conservation district" for
13 the quoted language to conform to the term used in
14 Chapter 36, Water Code.

15 Revised Law

16 Sec. 8894.0003. FINDINGS OF PUBLIC USE AND BENEFIT. (a)
17 The district is created to serve a public use and benefit.

18 (b) All land and other property included in the district
19 will benefit from the works and projects accomplished by the
20 district under the powers conferred by Section 59, Article XVI,
21 Texas Constitution. (Acts 74th Leg., R.S., Ch. 157, Sec. 4.)

22 Source Law

23 Sec. 4. All of the land and other property
24 included within the boundaries of the district will be
25 benefited by the works and projects that are to be
26 accomplished by the district under powers conferred by
27 Section 59, Article XVI, Texas Constitution. The
28 district is created to serve a public use and benefit.

29 Revised Law

30 Sec. 8894.0004. DISTRICT TERRITORY. The district's
31 boundaries are coextensive with the boundaries of Hemphill County,
32 unless the district's territory has been modified under:

- 33 (1) Subchapter J or K, Chapter 36, Water Code; or
34 (2) other law. (Acts 74th Leg., R.S., Ch. 157, Sec. 3;
35 New.)

36 Source Law

37 Sec. 3. The boundaries of the district are
38 coextensive with the boundaries of Hemphill County.

1 Revisor's Note

2 Section 3, Chapter 157, Acts of the 74th
3 Legislature, Regular Session, 1995, contains a
4 description of the district's territory. That
5 description may not be accurate on the effective date
6 of the revised law or at the time of a later reading
7 because the district's boundaries are subject to
8 change. For the reader's convenience, the revised law
9 adds references to the authority to change the
10 district's territory under Subchapter J or K, Chapter
11 36, Water Code, applicable to groundwater conservation
12 districts, and to the general authority of the
13 legislature to enact other laws under which the
14 district's territory may change.

15 Revisor's Note
16 (End of Subchapter)

17 Section 5(a), Chapter 157, Acts of the 74th
18 Legislature, Regular Session, 1995, provides that the
19 act prevails over general law in case of a conflict or
20 other inconsistency. The revised law omits the
21 provision because it duplicates in substance Section
22 311.026(b), Government Code (Code Construction Act).
23 The omitted law reads:

24 (a) . . . This Act prevails over any
25 provision of general law that is in conflict
26 or inconsistent with this Act.

27 SUBCHAPTER B. BOARD OF DIRECTORS

28 Revised Law

29 Sec. 8894.0051. COMPOSITION OF BOARD; TERMS. (a) The
30 district is governed by a board of five directors.

31 (b) Directors serve staggered four-year terms. (Acts 74th
32 Leg., R.S., Ch. 157, Secs. 6(a), (d).)

33 Source Law

34 Sec. 6. (a) The district is governed by a board
35 of five directors.

36 (d) Permanent directors other than initial
37 permanent directors serve staggered four-year terms.

1 Revisor's Note

2 (1) Section 6(d), Chapter 157, Acts of the 74th
3 Legislature, Regular Session, 1995, refers to
4 "[p]ermanent" directors. The revised law omits
5 "permanent" as unnecessary because, as used in the
6 revised law, "director" refers to a permanent
7 director. Section 6(d) also specifies that the
8 section applies to directors "other than initial
9 permanent directors." The revised law omits the
10 quoted language as unnecessary because the terms of
11 the initial permanent directors have expired.

12 (2) Section 6(e), Chapter 157, Acts of the 74th
13 Legislature, Regular Session, 1995, provides that a
14 director must qualify to serve in the manner provided
15 by Section 36.055, Water Code. The revised law omits
16 the provision because Section 36.055, Water Code,
17 applies to the district under Section 8894.0101 of
18 this chapter and Section 36.001(1), Water Code. The
19 omitted law reads:

20 (e) Each director must qualify to
21 serve as director in the manner provided by
22 Section 36.055, Water Code.

23 (3) Section 6(f), Chapter 157, Acts of the 74th
24 Legislature, Regular Session, 1995, provides that a
25 director serves until a successor has qualified. The
26 revised law omits the provision because it duplicates
27 Section 17, Article XVI, Texas Constitution, which
28 provides that an officer in this state continues to
29 perform the officer's official duties until a
30 successor has qualified. The omitted law reads:

31 (f) A director serves until the
32 director's successor has qualified.

33 Revised Law

34 Sec. 8894.0052. ELECTION DATE. The district shall hold an
35 election to elect the appropriate number of directors on the

1 uniform election date in May of each even-numbered year. (Acts 74th
2 Leg., R.S., Ch. 157, Sec. 9; New.)

3 Source Law

4 Sec. 9. On the uniform election date in May of
5 each even-numbered year, the district shall hold an
6 election to elect the appropriate number of directors
7 to the board.

8 SUBCHAPTER C. POWERS AND DUTIES

9 Revised Law

10 Sec. 8894.0101. GENERAL POWERS AND DUTIES. Except as
11 otherwise provided by Section 8894.0102, the district has the
12 rights, powers, privileges, functions, and duties provided by the
13 general law of this state, including Chapter 36, Water Code,
14 applicable to groundwater conservation districts created under
15 Section 59, Article XVI, Texas Constitution. (Acts 74th Leg., R.S.,
16 Ch. 157, Sec. 5(a) (part).)

17 Source Law

18 Sec. 5. (a) The district has all of the rights,
19 powers, privileges, functions, and duties provided by
20 the general law of this state, including Chapter 36,
21 Water Code, applicable to groundwater conservation
22 districts created under Section 59, Article XVI, Texas
23 Constitution, except

24 Revisor's Note

25 Section 5(b), Chapter 157, Acts of the 74th
26 Legislature, Regular Session, 1995, refers to the
27 continuing right of the state to supervise the
28 district through the Texas Commission on Environmental
29 Quality. The revised law omits the provision because
30 the provision duplicates in substance part of Section
31 12.081, Water Code, which subjects certain districts,
32 including groundwater conservation districts, to the
33 continuing right of supervision of the Texas
34 Commission on Environmental Quality. The omitted law
35 reads:

36 (b) The rights, powers, privileges,
37 functions, and duties of the district are
38 subject to the continuing right of
39 supervision of the state to be exercised by
40 and through the Texas Commission on

1 Environmental Quality.

2 Revised Law

3 Sec. 8894.0102. NO EMINENT DOMAIN POWER. The district may
4 not exercise the power of eminent domain. (Acts 74th Leg., R.S.,
5 Ch. 157, Sec. 5(a) (part).)

6 Source Law

7 (a) . . . the district may not exercise the
8 power of eminent domain for any purpose. . . .

9 Revisor's Note

10 Section 5(a), Chapter 157, Acts of the 74th
11 Legislature, Regular Session, 1995, provides that the
12 district may not "for any purpose" exercise the power
13 of eminent domain. The revised law omits the quoted
14 language because it does not contribute to the clear
15 meaning of the law.

16 Revisor's Note
17 (End of Chapter)

18 Section 6, Chapter 208, Acts of the 85th
19 Legislature, Regular Session, 2017, recites
20 legislative findings regarding procedural
21 requirements for legislation affecting the district
22 under the constitution and other laws and rules,
23 including proper legal notice and the filing of
24 recommendations. The revised law omits the provision
25 as executed. The omitted law reads:

26 Sec. 6. (a) The legal notice of the
27 intention to introduce this Act, setting
28 forth the general substance of this Act, has
29 been published as provided by law, and the
30 notice and a copy of this Act have been
31 furnished to all persons, agencies,
32 officials, or entities to which they are
33 required to be furnished under Section 59,
34 Article XVI, Texas Constitution, and
35 Chapter 313, Government Code.

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

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

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

7 SUBTITLE I. WATER CONTROL AND IMPROVEMENT DISTRICTS

8 CHAPTER 9075. FORT BEND COUNTY WATER CONTROL AND IMPROVEMENT

9 DISTRICT NO. 2

10 SUBCHAPTER A. GENERAL PROVISIONS

11 Sec. 9075.0001. DEFINITION 336
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 14 Sec. 9075.0004. DISTRICT TERRITORY 338
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 16 PROPERTY 339

17 SUBCHAPTER B. DEFINED AREA

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 19 Sec. 9075.0052. INITIAL TERRITORY 340
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 23 FACILITIES 342
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 25 Sec. 9075.0057. POWERS AND DUTIES 343
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 29 Sec. 9075.0061. ELECTIONS REGARDING TAXES AND BONDS 346
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1 CHAPTER 9075. FORT BEND COUNTY WATER CONTROL AND IMPROVEMENT

2 DISTRICT NO. 2

3 SUBCHAPTER A. GENERAL PROVISIONS

4 Revised Law

5 Sec. 9075.0001. DEFINITION. In this chapter, "district"
6 means the Fort Bend County Water Control and Improvement District
7 No. 2 in Fort Bend County and Harris County. (Acts 57th Leg., R.S.,
8 Ch. 312, Sec. 1 (part); Acts 61st Leg., R.S., Ch. 381, Sec. 1
9 (part).)

10 Source Law

11 [Acts 57th Leg., R.S., Ch. 312]

12 Sec. 1. That Fort Bend County Water Control and
13 Improvement District No. 2, lying in Fort Bend and
14 Harris Counties, Texas, hereinafter sometimes
15 referred to as "District,"

16 [Acts 61st Leg., R.S., Ch. 381]

17 Sec. 1. Fort Bend County Water Control and
18 Improvement District No. 2, hereinafter sometimes
19 referred to as "district," in Fort Bend County, Texas,
20

21 Revised Law

22 Sec. 9075.0002. FINDINGS OF PUBLIC USE AND BENEFIT. (a)
23 The district will serve a public use and benefit.

24 (b) All land and other property in the district will benefit
25 from the district. (Acts 57th Leg., R.S., Ch. 312, Sec. 2; Acts
26 61st Leg., R.S., Ch. 381, Sec. 3.)

27 Source Law

28 [Acts 57th Leg., R.S., Ch. 312]

29 Sec. 2. That it is hereby found and determined
30 that all of the land and other property included within
31 the boundaries of the District, as enlarged by this
32 Act, will be benefited, and that such District, as
33 enlarged, will serve a public use and benefit.

34 [Acts 61st Leg., R.S., Ch. 381]

35 Sec. 3. It is hereby found and determined that
36 all of the lands and other property included within the
37 boundaries of the district are, and will be, benefited
38 by said district.

39 Revisor's Note

40 Section 2, Chapter 312, Acts of the 57th
41 Legislature, Regular Session, 1961, refers to the Fort
42 Bend County Water Control and Improvement District

1 No. 2 as "the District, as enlarged by this Act"
2 because that act added territory to the district. The
3 revised law omits the language referring to the
4 enlargement as executed because the district territory
5 described in Section 1, Chapter 312, Acts of the 57th
6 Legislature, Regular Session, 1961, revised in Section
7 9075.0004 of this chapter, includes the territory
8 added by that act.

9 Revised Law

10 Sec. 9075.0003. NATURE OF DISTRICT. The district is a
11 conservation and reclamation district under Section 59, Article
12 XVI, Texas Constitution. (Acts 61st Leg., R.S., Ch. 381, Sec. 1
13 (part).)

14 Source Law

15 Sec. 1. [Fort Bend County Water Control and
16 Improvement District No. 2] . . . is hereby in all
17 things validated and is hereby declared to be a validly
18 existing and operating conservation and reclamation
19 district under Section 59, Article XVI of the
20 Constitution of Texas. . . .

21 Revisor's Note

22 Section 1, Chapter 381, Acts of the 61st
23 Legislature, Regular Session, 1969, provides that the
24 Fort Bend County Water Control and Improvement
25 District No. 2 is "hereby in all things validated and
26 is hereby declared to be a validly existing and
27 operating conservation and reclamation district." The
28 revised law omits the language regarding the
29 validation of the district because it served its
30 purpose on the day it took effect and is executed law.
31 Section 311.031(a)(2), Government Code (Code
32 Construction Act), provides that the repeal of a
33 statute does not affect any validation previously made
34 under the statute. Therefore, the omission of the
35 executed validation provision does not affect the
36 validation.

1 includes references to statutory authority to change
2 the district's territory under Subchapter J, Chapter
3 49, Water Code, applicable to the district under
4 Sections 49.001 and 49.002 of that chapter, and
5 Subchapter O, Chapter 51, Water Code, applicable to
6 water control and improvement districts, including the
7 Fort Bend County Water Control and Improvement
8 District No. 2, which was created as a water control
9 and improvement district by an order of the State Board
10 of Water Engineers in 1946. The revised law also
11 includes a reference to the general authority of the
12 legislature to enact other laws to change the
13 district's territory.

14 Revised Law

15 Sec. 9075.0005. COST OF RELOCATING OR ALTERING PROPERTY.

16 (a) In this section, "sole expense" means the actual cost of
17 relocating, raising, lowering, rerouting, changing the grade of, or
18 altering the construction of a facility described by Subsection (b)
19 in providing comparable replacement without enhancement of the
20 facility, after deducting from that cost the net salvage value
21 derived from the old facility.

22 (b) If the district's exercise of the power of eminent
23 domain, the power of relocation, or any other power granted by this
24 chapter makes necessary relocating, raising, rerouting, changing
25 the grade of, or altering the construction of a highway, railroad,
26 electric transmission line, telephone or telegraph property or
27 facility, or pipeline, the necessary action shall be accomplished
28 at the sole expense of the district. (Acts 57th Leg., R.S., Ch. 312,
29 Sec. 6.)

30 Source Law

31 Sec. 6. In the event that the District, in the
32 exercise of the power of eminent domain or power of
33 relocation, or any other power granted hereunder,
34 makes necessary the relocation, raising, re-routing,
35 or changing of grade, or altering the construction of
36 any highway, railroad, electric transmission line,
37 telephone or telegraph properties and facilities, or

1 pipeline, all such necessary relocation, raising,
2 re-routing, changing of grade or alteration of
3 construction shall be accomplished at the sole expense
4 of the District. The term "sole expense" shall mean
5 the actual cost of such relocation, raising, lowering,
6 re-routing, or change in grade or alteration of
7 construction in providing comparable replacement
8 without enhancement of such facilities, after
9 deducting therefrom the net salvage value derived from
10 the old facility.

11 Revisor's Note
12 (End of Subchapter)

13 Section 5, Chapter 312, Acts of the 57th
14 Legislature, Regular Session, 1961, provides that the
15 district may add or annex land as provided by law. The
16 revised law omits that provision as unnecessary.
17 Subchapter J, Chapter 49, and Subchapter O, Chapter
18 51, Water Code, provide for the annexation of land to
19 certain districts. Those subchapters apply to the
20 district for the reasons stated in Revisor's Note (2)
21 to Section 9075.0004 of this chapter. The omitted law
22 reads:

23 Sec. 5. Such District is hereby
24 authorized hereafter to add or annex
25 additional land thereto in the manner now or
26 hereafter provided by law for addition or
27 annexation of land to such Districts.

28 SUBCHAPTER B. DEFINED AREA

29 Revised Law

30 Sec. 9075.0051. CREATION OF DEFINED AREA; DESIGNATION. (a)
31 A defined area is created in the district.

32 (b) The defined area is designated to pay for improvements,
33 facilities, or services that primarily benefit the defined area and
34 do not generally benefit the district as a whole. (Acts 57th Leg.,
35 R.S., Ch. 312, Sec. 9.)

36 Source Law

37 Sec. 9. (a) A defined area is created in the
38 district.

39 (b) The defined area is designated to pay for
40 improvements, facilities, or services that primarily
41 benefit the defined area and do not generally benefit
42 the district as a whole.

43 Revised Law

44 Sec. 9075.0052. INITIAL TERRITORY. (a) The defined area is

1 initially composed of the territory described by Section 2, Chapter
2 669, Acts of the 84th Legislature, Regular Session, 2015.

3 (b) The boundaries and field notes contained in Section 2,
4 Chapter 669, Acts of the 84th Legislature, Regular Session, 2015,
5 form a closure. A mistake made in the field notes or in copying the
6 field notes in the legislative process does not affect:

7 (1) the defined area's organization, existence, or
8 validity;

9 (2) the district's right to issue any type of bond or
10 obligation for the purposes for which the defined area is
11 designated, including to pay the principal of and interest on a
12 bond;

13 (3) the district's right to impose or collect a tax in
14 the defined area; or

15 (4) the legality or operation of the defined area or
16 the district. (Acts 57th Leg., R.S., Ch. 312, Sec. 10.)

17 Source Law

18 Sec. 10. (a) The defined area is initially
19 composed of the territory described by Section 2 of the
20 Act enacting this section.

21 (b) The boundaries and field notes contained in
22 Section 2 of the Act enacting this section form a
23 closure. A mistake made in the field notes or in
24 copying the field notes in the legislative process
25 does not affect:

26 (1) the defined area's organization,
27 existence, or validity;

28 (2) the district's right to issue any type
29 of bond or obligation for the purposes for which the
30 defined area is designated, including to pay the
31 principal of and interest on a bond;

32 (3) the district's right to impose or
33 collect a tax in the defined area; or

34 (4) the legality or operation of the
35 defined area or the district.

36 Revisor's Note

37 The revision of the law governing the defined
38 area of the district does not revise the statutory
39 description of the initial territory of the defined
40 area contained in Section 2, Chapter 669, Acts of the
41 84th Legislature, Regular Session, 2015, to avoid the
42 lengthy recitation of the description and because that

1 description may not be accurate on the effective date
2 of the revision or at the time of a later reading.

3 Revised Law

4 Sec. 9075.0053. EXCLUSION OF LAND. Subject to the City of
5 Stafford providing written consent by ordinance or resolution, the
6 district may exclude land from the defined area in the same manner
7 as the district may exclude land from the district. (Acts 57th Leg.,
8 R.S., Ch. 312, Sec. 11.)

9 Source Law

10 Sec. 11. Subject to the City of Stafford
11 providing written consent by ordinance or resolution,
12 the district may exclude land from the defined area in
13 the same manner as the district may exclude land from
14 the district.

15 Revised Law

16 Sec. 9075.0054. PROCEDURE FOR ELECTION. (a) Before the
17 district may impose an ad valorem tax or issue bonds payable from ad
18 valorem taxes of the defined area, the governing body of the
19 district must call and hold an election in the defined area only.

20 (b) The governing body of the district may submit the
21 proposition to the voters on the same ballot to be used in another
22 election. (Acts 57th Leg., R.S., Ch. 312, Sec. 12.)

23 Source Law

24 Sec. 12. (a) Before the district may impose an
25 ad valorem tax or issue bonds payable from ad valorem
26 taxes of the defined area described by Section 9, the
27 governing body of the district shall call and hold an
28 election in the defined area only.

29 (b) The governing body of the district may
30 submit the proposition to the voters on the same ballot
31 to be used in another election.

32 Revised Law

33 Sec. 9075.0055. TAXES FOR SERVICES, IMPROVEMENTS, AND
34 FACILITIES. On approval of the voters in the defined area, the
35 district may apply separately, differently, equitably, and
36 specifically its taxing power and lien authority to the defined
37 area to provide money to construct, administer, maintain, and
38 operate services, improvements, and facilities that primarily
39 benefit the defined area. (Acts 57th Leg., R.S., Ch. 312, Sec. 13.)

1 Source Law

2 Sec. 13. On approval of the qualified voters in
3 the defined area, the district may apply separately,
4 differently, equitably, and specifically its taxing
5 power and lien authority to the defined area to provide
6 money to construct, administer, maintain, and operate
7 services, improvements, and facilities that primarily
8 benefit the defined area.

9 Revisor's Note

10 Section 13, Chapter 312, Acts of the 57th
11 Legislature, Regular Session, 1961, refers to approval
12 of "qualified voters." Throughout this chapter, the
13 revised law omits descriptions of voters as
14 "qualified" as unnecessary because Chapter 11,
15 Election Code, governs eligibility to vote in an
16 election in this state and allows only "qualified"
17 voters who are residents of the territory covered by
18 the election to vote in an election.

19 Revised Law

20 Sec. 9075.0056. ISSUANCE OF BONDS. On approval of the
21 voters in the defined area, the district may issue bonds to provide
22 for any land, improvements, facilities, plants, equipment, and
23 appliances for the defined area. (Acts 57th Leg., R.S., Ch. 312,
24 Sec. 14.)

25 Source Law

26 Sec. 14. On approval of the qualified voters in
27 the defined area, the district may issue bonds to
28 provide for any land, improvements, facilities,
29 plants, equipment, and appliances for the defined
30 area.

31 Revised Law

32 Sec. 9075.0057. POWERS AND DUTIES. (a) For the benefit of
33 the defined area, the district has the powers and duties provided by
34 the general law of this state necessary to accomplish the purposes
35 of:

- 36 (1) Section 59, Article XVI, Texas Constitution;
37 (2) Section 52, Article III, Texas Constitution,
38 applicable to the construction, acquisition, improvement,
39 operation, or maintenance of macadamized, graveled, or paved roads,

1 or improvements, including storm drainage, in aid of those roads;
2 and

3 (3) except as provided by this chapter, Chapters 49
4 and 51, Water Code, applicable to water control and improvement
5 districts created under Section 59, Article XVI, Texas
6 Constitution.

7 (b) Except as provided by Subsection (c), the governing body
8 of the district shall administer the defined area as provided by
9 Chapter 51, Water Code.

10 (c) Sections 51.518, 51.519, 51.520, 51.521, 51.522,
11 51.523, 51.524, 51.526, 51.527, 51.528, and 51.529, Water Code, do
12 not apply to the district. (Acts 57th Leg., R.S., Ch. 312, Sec.
13 15.)

14 Source Law

15 Sec. 15. (a) For the benefit of the defined
16 area, the district has the powers and duties provided
17 by the general law of this state necessary to
18 accomplish the purposes of:

19 (1) Section 59, Article XVI, Texas
20 Constitution;

21 (2) Section 52, Article III, Texas
22 Constitution, applicable to the construction,
23 acquisition, improvement, operation, or maintenance
24 of macadamized, graveled, or paved roads, or
25 improvements, including storm drainage, in aid of
26 those roads; and

27 (3) except as provided by this chapter,
28 Chapters 49 and 51, Water Code, applicable to water
29 control and improvement districts created under
30 Section 59, Article XVI, Texas Constitution.

31 (b) Except as provided by Subsection (c), the
32 governing body of the district shall administer the
33 defined area as provided by Chapter 51, Water Code.

34 (c) Sections 51.518, 51.519, 51.520, 51.521,
35 51.522, 51.523, 51.524, 51.526, 51.527, 51.528, and
36 51.529, Water Code, do not apply to the district.

37 Revised Law

38 Sec. 9075.0058. AUTHORITY FOR ROAD PROJECTS. Under Section
39 52, Article III, Texas Constitution, for the benefit of the defined
40 area, the district may design, acquire, construct, finance, issue
41 bonds for, improve, operate, maintain, and convey to this state, a
42 county, or a municipality for operation and maintenance
43 macadamized, graveled, or paved roads, or improvements, including
44 storm drainage, in aid of those roads, including roads located

1 outside the boundaries of the defined area that benefit the defined
2 area. (Acts 57th Leg., R.S., Ch. 312, Sec. 16.)

3 Source Law

4 Sec. 16. Under Section 52, Article III, Texas
5 Constitution, for the benefit of the defined area, the
6 district may design, acquire, construct, finance,
7 issue bonds for, improve, operate, maintain, and
8 convey to this state, a county, or a municipality for
9 operation and maintenance macadamized, graveled, or
10 paved roads, or improvements, including storm
11 drainage, in aid of those roads, including roads
12 located outside the boundaries of the defined area
13 that benefit the defined area.

14 Revised Law

15 Sec. 9075.0059. ROAD STANDARDS AND REQUIREMENTS. A road
16 project must meet all applicable construction standards, zoning and
17 subdivision requirements, and regulations of each municipality in
18 whose corporate limits or extraterritorial jurisdiction the road
19 project is located. (Acts 57th Leg., R.S., Ch. 312, Sec. 17.)

20 Source Law

21 Sec. 17. A road project must meet all applicable
22 construction standards, zoning and subdivision
23 requirements, and regulations of each municipality in
24 whose corporate limits or extraterritorial
25 jurisdiction the road project is located.

26 Revised Law

27 Sec. 9075.0060. IMPROVEMENT PROJECTS AND SERVICES. For the
28 benefit of the defined area, the district may provide, design,
29 construct, acquire, improve, relocate, operate, maintain, or
30 finance an improvement project or service using any money available
31 to the district, or contract with a governmental or private entity
32 to provide, design, construct, acquire, improve, relocate,
33 operate, maintain, or finance an improvement project or service
34 authorized under this chapter. (Acts 57th Leg., R.S., Ch. 312, Sec.
35 18.)

36 Source Law

37 Sec. 18. For the benefit of the defined area,
38 the district may provide, design, construct, acquire,
39 improve, relocate, operate, maintain, or finance an
40 improvement project or service using any money
41 available to the district, or contract with a
42 governmental or private entity to provide, design,
43 construct, acquire, improve, relocate, operate,
44 maintain, or finance an improvement project or service

1 authorized under this chapter.

2 Revised Law

3 Sec. 9075.0061. ELECTIONS REGARDING TAXES AND BONDS. (a)
4 For the benefit of the defined area, the district may issue, without
5 an election, bonds, notes, and other obligations secured by revenue
6 other than ad valorem taxes.

7 (b) The district must hold an election in the defined area
8 to obtain approval of the voters of the defined area before the
9 district may impose an ad valorem tax or issue bonds payable from ad
10 valorem taxes in the defined area.

11 (c) An election under this section does not require that an
12 election be held in the part of the district located outside the
13 defined area.

14 (d) All or any part of any facilities or improvements that
15 may be acquired by a district through the issuance of bonds may be
16 submitted as a single proposition or as several propositions to be
17 voted on at the election. (Acts 57th Leg., R.S., Ch. 312, Sec. 19.)

18 Source Law

19 Sec. 19. (a) For the benefit of the defined
20 area, the district may issue, without an election,
21 bonds, notes, and other obligations secured by revenue
22 other than ad valorem taxes.

23 (b) The district must hold an election in the
24 defined area to obtain approval of the qualified
25 voters of the defined area before the district may
26 impose an ad valorem tax or issue bonds payable from ad
27 valorem taxes in the defined area.

28 (c) An election under this section does not
29 require that an election be held in the part of the
30 district located outside the defined area.

31 (d) All or any part of any facilities or
32 improvements that may be acquired by a district by the
33 issuance of its bonds may be submitted as a single
34 proposition or as several propositions to be voted on
35 at the election.

36 Revised Law

37 Sec. 9075.0062. OPERATION AND MAINTENANCE TAX. (a) If
38 authorized by a majority of the voters in the defined area voting at
39 an election held in accordance with Section 9075.0061, the district
40 may impose an operation and maintenance tax on taxable property in
41 the defined area in accordance with Section 49.107, Water Code, for
42 any district purpose, including to:

- 1 (1) maintain and operate the defined area;
2 (2) construct or acquire improvements; or
3 (3) provide a service.

4 (b) The governing body of the district shall determine the
5 tax rate. The rate may not exceed the rate approved at the election
6 described by Subsection (a).

7 (c) Section 49.107(h), Water Code, does not apply to the
8 district. (Acts 57th Leg., R.S., Ch. 312, Sec. 20.)

9 Source Law

10 Sec. 20. (a) If authorized by a majority of the
11 voters in the defined area voting at an election held
12 in accordance with Section 19, the district may impose
13 an operation and maintenance tax on taxable property
14 in the defined area in accordance with Section 49.107,
15 Water Code, for any district purpose, including to:

- 16 (1) maintain and operate the defined area;
17 (2) construct or acquire improvements; or
18 (3) provide a service.

19 (b) The governing body of the district shall
20 determine the tax rate. The rate may not exceed the
21 rate approved at the election.

22 (c) Section 49.107(h), Water Code, does not
23 apply to the district.

24 Revised Law

25 Sec. 9075.0063. AUTHORITY TO BORROW MONEY AND TO ISSUE
26 BONDS AND OTHER OBLIGATIONS. (a) For the benefit of the defined
27 area, the district may borrow money on terms determined by the
28 governing body of the district.

29 (b) The district may issue bonds, notes, or other
30 obligations payable wholly or partly from ad valorem taxes, impact
31 fees, revenue, grants, or other district money, or any combination
32 of those sources of money from the defined area, to pay for any
33 authorized district purpose.

34 (c) The limitation on the outstanding principal amount of
35 bonds, notes, and other obligations provided by Section 49.4645,
36 Water Code, does not apply to the district.

37 (d) The district must obtain approval from the Texas
38 Commission on Environmental Quality as provided by Chapter 49,
39 Water Code, before the district issues bonds to provide water,
40 sewer, or drainage facilities for the benefit of the defined area.

1 (Acts 57th Leg., R.S., Ch. 312, Sec. 21.)

2 Source Law

3 Sec. 21. (a) For the benefit of the defined
4 area, the district may borrow money on terms
5 determined by the governing body of the district.

6 (b) The district may issue bonds, notes, or
7 other obligations payable wholly or partly from ad
8 valorem taxes, impact fees, revenue, grants, or other
9 district money, or any combination of those sources of
10 money from the defined area, to pay for any authorized
11 district purpose.

12 (c) The limitation on the outstanding principal
13 amount of bonds, notes, and other obligations provided
14 by Section 49.4645, Water Code, does not apply to the
15 district.

16 (d) The district must obtain approval from the
17 Texas Commission on Environmental Quality as provided
18 by Chapter 49, Water Code, before the district issues
19 bonds to provide water, sewer, or drainage facilities
20 for the benefit of the defined area.

21 Revised Law

22 Sec. 9075.0064. TAXES FOR BONDS. At the time the district
23 issues bonds payable wholly or partly from ad valorem taxes from the
24 defined area, the governing body of the district shall provide for
25 the annual imposition of a continuing direct annual ad valorem tax,
26 without limit as to rate or amount, for each year that all or part of
27 the bonds are outstanding as required and in the manner provided by
28 Sections 51.433 and 51.436, Water Code. (Acts 57th Leg., R.S., Ch.
29 312, Sec. 22.)

30 Source Law

31 Sec. 22. At the time the district issues bonds
32 payable wholly or partly from ad valorem taxes from the
33 defined area, the governing body of the district shall
34 provide for the annual imposition of a continuing
35 direct annual ad valorem tax, without limit as to rate
36 or amount, for each year that all or part of the bonds
37 are outstanding as required and in the manner provided
38 by Sections 51.433 and 51.436, Water Code.

39 Revisor's Note
40 (End of Chapter)

41 (1) Section 3, Chapter 312, Acts of the 57th
42 Legislature, Regular Session, 1961, authorizes the
43 governing body of the district to call and hold an
44 election for the enlarged district on assuming debt
45 and levying taxes. Because that election has been
46 held, the revised law omits that section as executed.

1 The omitted law reads:

2 Sec. 3. The District's governing
3 body is hereby authorized to call and hold
4 an assumption of indebtedness election or
5 elections in said District, as enlarged, on
6 the question of the assumption by said
7 District, as enlarged, of the indebtedness
8 of such District, and the proposition to be
9 submitted shall be "For the assumption of
10 indebtedness of Fort Bend County Water
11 Control and Improvement District No. 2, as
12 enlarged, and the levy of taxes adequate to
13 provide for the payment thereof," and the
14 contrary thereof. The time and place or
15 places of holding said election shall be
16 designated in the election order, and such
17 election shall be held not less than fifteen
18 (15) days from the date of such order.
19 Notice of such election shall be given by
20 posting a substantial copy of the election
21 order at one (1) public place within said
22 District. Such notice shall also be
23 published on the same day in each of two (2)
24 successive weeks in a newspaper of general
25 circulation in said District and published
26 in either Fort Bend or Harris County, Texas.
27 The date of such posting and the date of the
28 first publication shall be not less than
29 fourteen (14) days prior to the date set for
30 said election. Only duly qualified
31 resident electors of said District, as
32 enlarged, who own taxable property within
33 said District, as enlarged, and who have
34 duly rendered the same for taxation shall
35 vote at said election.

36 (2) Section 4, Chapter 312, Acts of the 57th
37 Legislature, Regular Session, 1961, Sections 1 (in
38 part) and 2, Chapter 381, Acts of the 61st Legislature,
39 Regular Session, 1969, and Section 4(a), Chapter 669,
40 Acts of the 84th Legislature, Regular Session, 2015,
41 validate certain acts performed by the district. The
42 revised law omits those provisions because they served
43 their purpose on the day they took effect and are
44 executed law. Section 311.031(a)(2), Government Code
45 (Code Construction Act), provides that the repeal of a
46 statute does not affect any validation previously made
47 under the statute. Therefore, the omission of the
48 executed validation provisions does not affect those
49 validations. The omitted law reads:

50 [Acts 57th Leg., R.S., Ch. 312]
51 Sec. 4. All governmental proceedings

1 (including but not limited to the issuance,
2 sale and delivery of its notes, bonds or
3 other obligations) and acts performed by
4 the governing board of said District and all
5 officers thereof in connection with said
6 District are hereby in all things validated
7 as of the respective date of such
8 proceedings and acts.

9 [Acts 61st Leg., R.S., Ch. 381]

10 Sec. 1. . . . Without in any way
11 limiting the generalization of the
12 foregoing, it is expressly provided that
13 all proceedings by which lands have been
14 added or annexed to said district since its
15 creation are hereby in all things
16 validated.

17 Sec. 2. All governmental proceedings
18 and acts performed by the governing body of
19 said district and all officials thereof in
20 connection with said district are hereby in
21 all things validated as of the respective
22 date of such proceedings and acts.

23 [Acts 84th Leg., R.S., Ch. 669]

24 Sec. 4. (a) The legislature
25 validates and confirms all acts and
26 proceedings of the Fort Bend County Water
27 Control and Improvement District No. 2 that
28 were taken before the effective date of this
29 Act.

30 (3) Section 4, Chapter 381, Acts of the 61st
31 Legislature, Regular Session, 1969, provides that
32 Chapter 381 does not validate any governmental act or
33 proceeding that is the subject of pending litigation
34 and that is ultimately determined to be invalid.
35 Section 4(b), Chapter 669, Acts of the 84th
36 Legislature, Regular Session, 2015, provides that a
37 certain provision of Chapter 669 does not apply to any
38 matter that has been held by a final court judgment to
39 be invalid or that is the subject of pending litigation
40 and ultimately determined to be invalid. Those
41 provisions are omitted from the revised law as
42 executed and because Sections 311.031(a)(1) and (2),
43 Government Code (Code Construction Act), provide that
44 the repeal of a statute does not affect the prior
45 operation of a statute or any validation, cure, right,
46 privilege, obligation, or liability acquired,
47 accrued, accorded, or incurred under the statute. The

1 omitted law reads:

2 [Acts 61st Leg., R.S., Ch. 381]

3 Sec. 4. This Act shall not be
4 construed as validating any governmental
5 act or proceeding, if at the time this Act
6 becomes effective said governmental act or
7 proceeding was the subject of litigation
8 pending in any court of competent
9 jurisdiction, if such litigation is
10 ultimately determined against the legality
11 thereof.

12 [Acts 84th Leg., R.S., Ch. 669]

13 [Sec. 4]

14 (b) Subsection (a) of this section
15 does not apply to any matter that on the
16 effective date of this Act:

17 (1) is involved in litigation
18 if the litigation ultimately results in the
19 matter being held invalid by a final
20 judgment of a court; or

21 (2) has been held invalid by a
22 final judgment of a court.

23 (4) Section 3, Chapter 669, Acts of the 84th
24 Legislature, Regular Session, 2015, states that the
25 district retains all rights, powers, privileges,
26 authorities, duties, and functions it had before the
27 enactment of that act. The revised law omits that
28 provision as unnecessary because an accepted general
29 principle of statutory construction requires a statute
30 to be given cumulative effect with other statutes
31 unless the statute provides otherwise or the statutes
32 are in conflict. Chapter 669 provides additional
33 authority to the district without limiting or
34 conflicting with the district's existing law. The
35 omitted law reads:

36 Sec. 3. The Fort Bend County Water
37 Control and Improvement District No. 2
38 retains all the rights, powers, privileges,
39 authority, duties, and functions that it
40 had before the effective date of this Act.

41 (5) Section 7, Chapter 312, Acts of the 57th
42 Legislature, Regular Session, 1961, and Section 5,
43 Chapter 381, Acts of the 61st Legislature, Regular
44 Session, 1969, provide that the act is severable. The
45 revised law omits those provisions because the same

1 result is produced by application of Section 311.032,
2 Government Code (Code Construction Act), which
3 provides that a provision of a statute is severable
4 from each other provision of the statute that can be
5 given effect. The omitted law reads:

6 [Acts 57th Leg., R.S., Ch. 312]

7 Sec. 7. If any word, phrase,
8 sentence, paragraph, section or other part
9 of this Act or the application thereof to
10 any person or circumstance shall ever be
11 held to be invalid or unconstitutional, the
12 remainder of the Act and the application of
13 such word, phrase, sentence, paragraph,
14 section or other part of this Act to other
15 persons or circumstances shall not be
16 affected thereby.

17 [Acts 61st Leg., R.S., Ch. 381]

18 Sec. 5. If any word, phrase,
19 sentence, paragraph, section or other part
20 of this Act or the application thereto to
21 any person or circumstance shall ever be
22 held to be invalid or unconstitutional, the
23 remainder of the Act and the application of
24 such word, phrase, sentence, paragraph,
25 section or other part of this Act to other
26 persons or circumstances shall not be
27 affected thereby.

28 (6) Section 5, Chapter 669, Acts of the 84th
29 Legislature, Regular Session, 2015, recites
30 legislative findings regarding procedural
31 requirements for legislation affecting the district
32 under the constitution and other laws and rules,
33 including proper legal notice and the filing of
34 recommendations. The revised law omits those
35 provisions as executed. The omitted law reads:

36 Sec. 5. (a) The legal notice of the
37 intention to introduce this Act, setting
38 forth the general substance of this Act, has
39 been published as provided by law, and the
40 notice and a copy of this Act have been
41 furnished to all persons, agencies,
42 officials, or entities to which they are
43 required to be furnished under Section 59,
44 Article XVI, Texas Constitution, and
45 Chapter 313, Government Code.

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

50 (c) The Texas Commission on
51 Environmental Quality has filed its
52 recommendations relating to this Act with

1 the governor, the lieutenant governor, and
2 the speaker of the house of representatives
3 within the required time.

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

10 CHAPTER 9077. BELL COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT
11 NO. 5

12 Sec. 9077.0001. DEFINITION 353
13 Sec. 9077.0002. EMINENT DOMAIN 353

14 CHAPTER 9077. BELL COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT
15 NO. 5

16 Revised Law

17 Sec. 9077.0001. DEFINITION. In this chapter, "district"
18 means the Bell County Water Control and Improvement District No. 5
19 in Bell County. (Acts 56th Leg., R.S., Ch. 227, Sec. 1 (part); New.)

20 Source Law

21 Sec. 1. Bell County Water Control and
22 Improvement District No. 5, in Bell County, Texas,
23

24 Revisor's Note

25 The definition of "district" is added to the
26 revised law for drafting convenience and to eliminate
27 frequent, unnecessary repetition of the substance of
28 the definition.

29 Revised Law

30 Sec. 9077.0002. EMINENT DOMAIN. (a) The district may
31 exercise the power of eminent domain to acquire real estate located
32 in Bell County.

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

35 (c) The district's authority under this section to exercise
36 the power of eminent domain expired on September 1, 2013, unless the
37 district submitted a letter to the comptroller in accordance with
38 Section 2206.101(b), Government Code, not later than December 31,
39 2012. (Acts 56th Leg., R.S., Ch. 227, Sec. 1 (part); New.)

1 SUBCHAPTER C. TAXES

2 Sec. 9078.0101. IMPOSITION OF MAINTENANCE TAX;
3 ELECTION PROCEDURE 364
4 Sec. 9078.0102. MAINTENANCE TAX RATE 366
5 Sec. 9078.0103. TAX METHOD 367

6 SUBCHAPTER D. BONDS

7 Sec. 9078.0151. DEFINITION OF NET REVENUES 367
8 Sec. 9078.0152. AUTHORITY TO ISSUE BONDS 367
9 Sec. 9078.0153. SECURITY FOR REVENUE BONDS 370
10 Sec. 9078.0154. BOND ELECTION REQUIRED 371
11 Sec. 9078.0155. REFUNDING BONDS 374

12 CHAPTER 9078. FANNIN COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT
13 NO. 1

14 SUBCHAPTER A. GENERAL PROVISIONS

15 Revised Law

16 Sec. 9078.0001. DEFINITIONS. In this chapter:
17 (1) "Board" means the district's board of directors.
18 (2) "District" means the Fannin County Water Control
19 and Improvement District No. 1. (Acts 57th Leg., R.S., Ch. 65, Sec.
20 1 (part); New.)

21 Source Law

22 Sec. 1. . . . Fannin County Water Control and
23 Improvement District No. 1,

24 Revisor's Note

25 The definitions of "board" and "district" are
26 added to the revised law for drafting convenience and
27 to eliminate frequent, unnecessary repetition of the
28 substance of the definitions.

29 Revised Law

30 Sec. 9078.0002. NATURE OF DISTRICT. The district is a
31 conservation and reclamation district in Fannin County established
32 under Section 59, Article XVI, Texas Constitution. (Acts 57th Leg.,
33 R.S., Ch. 65, Sec. 1 (part); Acts 58th Leg., R.S., Ch. 275, Secs. 1
34 (part), 7 (part).)

1 Legislature, Regular Session, 1963, contains a
2 legislative declaration of a constitutional "duty" to
3 enact Chapter 275 as law. The revised law omits the
4 declaration by the legislature as executed and because
5 it has no substantive effect. The omitted law reads:

6 Sec. 7. The Legislature hereby
7 declares that [said District is established
8 under the provisions of Section 59 of
9 Article XVI of the Texas Constitution;]
10 that the enactment hereof is in fulfillment
11 of a duty imposed by said Constitutional
12 provision to pass such laws as may be
13 appropriate in the preservation and
14 conservation of the natural resources of
15 the State;

16 Revised Law

17 Sec. 9078.0004. DISTRICT TERRITORY. The district is
18 composed of the territory described by metes and bounds in the
19 resolution and order of the commissioners court of Fannin County
20 creating the district, recorded in Volume 1, page 3, of the Water
21 Control Improvement District minutes of Fannin County, as that
22 territory may have been modified under:

- 23 (1) Subchapter J, Chapter 49, Water Code;
24 (2) Subchapter O, Chapter 51, Water Code; or
25 (3) other law. (Acts 57th Leg., R.S., Ch. 65, Sec. 1
26 (part); New.)

27 Source Law

28 Sec. 1. The . . . boundaries of [Fannin County
29 Water Control and Improvement District No. 1, composed
30 of lands and territories, situated within Fannin
31 County, Texas,] the boundaries of said District
32 described by metes and bounds in the resolution and
33 order of the Commissioners Court of Fannin County,
34 Texas, creating the District, recorded in Volume 1,
35 page 3 of the Water Control Improvement District
36 minutes of said county, to which reference is here made
37 for a more complete description, and which is
38 incorporated herein by reference the same as if copied
39 herein in full,

40 Revisor's Note

41 For the reader's convenience, the revised law
42 includes references to the statutory description of
43 the district's territory and to statutory authority to
44 change the district's territory under Subchapter J,

1 Chapter 49, Water Code, applicable to the district
2 under Sections 49.001 and 49.002 of that chapter, and
3 under Subchapter O, Chapter 51, Water Code, applicable
4 to water control and improvement districts. The
5 revised law also includes a reference to the general
6 authority of the legislature to enact a law to change
7 the district's territory.

8 Revised Law

9 Sec. 9078.0005. LIBERAL CONSTRUCTION OF CHAPTER. This
10 chapter shall be liberally construed to effect its purposes. (Acts
11 58th Leg., R.S., Ch. 275, Sec. 7 (part).)

12 Source Law

13 Sec. 7. . . . All terms and provisions of this
14 Act are to be liberally construed to effectuate the
15 purpose and objectives herein set forth.

16 Revisor's Note

17 Section 7, Chapter 275, Acts of the 58th
18 Legislature, Regular Session, 1963, refers to the
19 "purpose and objectives" set forth in that act. The
20 revised law omits "objectives" as included in the
21 meaning of "purpose."

22 SUBCHAPTER B. POWERS AND DUTIES

23 Revised Law

24 Sec. 9078.0051. GENERAL POWERS AND DUTIES. The district
25 may exercise the powers essential to the accomplishment of the
26 purposes of Section 59, Article XVI, Texas Constitution, and may
27 exercise the rights, powers, privileges, prerogatives, and
28 functions enumerated in or implied by that section, including those
29 listed in this subchapter. (Acts 57th Leg., R.S., Ch. 65, Sec. 2
30 (part); Acts 58th Leg., R.S., Ch. 275, Sec. 1 (part); New.)

31 Source Law

32 [Acts 57th Leg., R.S., Ch. 65]

33 Sec. 2. The District is hereby granted all of
34 the powers, privileges, and prerogatives enumerated in
35 Article XVI, Section 59, of the Constitution of the
36 State of Texas, including but not limited to the
37 following:
38 . . .

1 [Acts 58th Leg., R.S., Ch. 275]

2 Sec. 1. . . . [Said District shall continue to
3 exist as a conservation and reclamation district
4 pursuant to Article XVI, Section 59 of the Texas
5 Constitution and] shall be recognized to exercise all
6 the powers and be a governmental agency and body
7 politic and corporate essential to the accomplishment
8 of the purposes of said Constitutional provisions and
9 created to exercise such rights, powers, privileges
10 and functions as may be contemplated or implied by the
11 aforesaid Constitutional provision, and

12 Revisor's Note

13 (1) Section 1, Chapter 275, Acts of the 58th
14 Legislature, Regular Session, 1963, provides that the
15 district is a "governmental agency and body politic
16 and corporate." The revised law omits that provision
17 because it duplicates a portion of Section 59(b),
18 Article XVI, Texas Constitution, which provides that a
19 conservation and reclamation district is a
20 governmental agency and a body politic and corporate.

21 (2) Section 1, Chapter 275, Acts of the 58th
22 Legislature, Regular Session, 1963, refers to rights,
23 powers, privileges, and functions that are
24 "contemplated or implied" by Section 59, Article XVI,
25 Texas Constitution. The revised law omits
26 "contemplated" because the meaning of the term is
27 included in the meaning of "implied."

28 Revised Law

29 Sec. 9078.0052. WATER CONTROL AND IMPROVEMENT DISTRICT
30 POWERS. The district has the rights, powers, privileges, and
31 functions provided by general law applicable to a water control and
32 improvement district including Chapters 49 and 51, Water Code,
33 including the power to:

34 (1) construct, acquire, improve, maintain, and repair
35 a dam or other structure; and

36 (2) acquire land, easements, properties, or equipment
37 needed to use, control, and distribute water that may be impounded,
38 diverted, or controlled by the district. (Acts 57th Leg., R.S., Ch.
39 65, Sec. 2 (part); Acts 58th Leg., R.S., Ch. 275, Sec. 1 (part);

1 New.)

2 Source Law

3 [Acts 57th Leg., R.S., Ch. 65]

4 Sec. 2. . . .

5 Subsec. B. In exercising the power for which the
6 District is created, it shall have all of the authority
7 conferred by General Law upon water control and
8 improvement districts, including, but not limited to,
9 the power to construct, acquire, improve, maintain and
10 repair dams or other structures and the acquisition of
11 land, easements, properties, or equipment which may be
12 needed to utilize, control, and distribute any waters
13 that may be impounded, diverted, or controlled by the
14 District.
15 . . .

16 [Acts 58th Leg., R.S., Ch. 275]

17 Sec. 1. . . . [Said District shall continue to
18 exist as a conservation and reclamation district
19 pursuant to Article XVI, Section 59 of the Texas
20 Constitution and shall be recognized to exercise all
21 the powers and be a governmental agency and body
22 politic and corporate essential to the accomplishment
23 of the purposes of said Constitutional provisions and
24 created to exercise such rights, powers, privileges
25 and functions as may be contemplated or implied by the
26 aforesaid Constitutional provision, and] those now or
27 hereafter conferred by the General Laws of the State
28 relating to water control and improvement districts
29 where not in conflict with this Act.

30 Revisor's Note

31 (1) Subsection B, Section 2, Chapter 65, Acts of
32 the 57th Legislature, Regular Session, 1961, refers to
33 the authority "conferred by General Law upon water
34 control and improvement districts." For the reader's
35 convenience, the revised law adds references to
36 Chapter 49, Water Code, applicable to the district
37 under Sections 49.001 and 49.002 of that chapter, and
38 to Chapter 51, Water Code, applicable to water control
39 and improvement districts.

40 (2) Subsection B, Section 2, Chapter 65, Acts of
41 the 57th Legislature, Regular Session, 1961, refers to
42 "authority" conferred on the district. Section 1,
43 Chapter 275, Acts of the 58th Legislature, Regular
44 Session, 1963, refers to the exercise of "rights,
45 powers, privileges and functions" by the district. The
46 revised law omits "authority" because, in context,

1 "authority" is included in the meaning of "rights,
2 powers, [and] privileges."

3 (3) Subsection B, Section 2, Chapter 65, Acts of
4 the 57th Legislature, Regular Session, 1961, refers to
5 authority "including, but not limited to" certain
6 powers. The revised law omits "but not limited to"
7 because Section 311.005(13), Government Code (Code
8 Construction Act), provides that "includes" and
9 "including" are terms of enlargement and not of
10 limitation and do not create a presumption that
11 components not expressed are excluded.

12 (4) Section 1, Chapter 275, Acts of the 58th
13 Legislature, Regular Session, 1963, provides that the
14 district has the rights, powers, privileges, and
15 functions provided by general law to water control and
16 improvement districts "where not in conflict with this
17 Act." The revised law omits the quoted language
18 because that language duplicates, in substance,
19 Section 311.026(b), Government Code (Code
20 Construction Act), which provides that if there is a
21 conflict between a general provision of law and a
22 special or local provision, the special or local
23 provision prevails unless the general provision is the
24 later enactment and the manifest intent is that the
25 general provision prevail.

26 Revised Law

27 Sec. 9078.0053. CONTROL OF WATER AND FLOODWATER;
28 RECLAMATION. The district may:

29 (1) control, store, preserve, and distribute the water
30 and floodwater in the district for the irrigation of arid land,
31 conservation, preservation, reclamation, and drainage of land in
32 the district;

33 (2) carry out flood prevention measures to prevent
34 damage to land and property in the district; and

1 (3) reclaim lands damaged before April 10, 1961,
2 because of the prior failure to provide the facilities authorized
3 to be constructed under this chapter. (Acts 57th Leg., R.S., Ch. 65,
4 Sec. 2 (part).)

5 Source Law

6 Sec. 2. . . .

7 Subsec. A. The District shall have and exercise
8 and is hereby vested with the power to control, store,
9 preserve and distribute the water and floodwaters
10 within the area of the District for the irrigation of
11 arid land, conservation, preservation, reclamation,
12 and drainage of the lands within the District, and is
13 empowered to carry out flood prevention measures to
14 prevent damage to the land and property within the
15 District, and to reclaim lands heretofore damaged by
16 reason of the prior failure to provide the facilities
17 authorized to be constructed under the provisions of
18 this Act.

19 . . .

20 Revisor's Note

21 (1) Subsection A, Section 2, Chapter 65, Acts of
22 the 57th Legislature, Regular Session, 1961, provides
23 that the district "shall have and exercise and is
24 hereby vested with the power to" perform certain acts.
25 The revised law substitutes "may" for the quoted
26 language because, in context, the terms are synonymous
27 and "may" is more commonly used.

28 (2) Subsection A, Section 2, Chapter 65, Acts of
29 the 57th Legislature, Regular Session, 1961, provides
30 that the district may reclaim certain lands
31 "heretofore" damaged, meaning lands damaged before the
32 effective date of Chapter 65. The revised law
33 substitutes "before April 10, 1961," for "heretofore"
34 because that was the effective date of Chapter 65.

35 Revised Law

36 Sec. 9078.0054. COST OF RELOCATING OR ALTERING PROPERTY.
37 If the district's exercise of the power of eminent domain, the power
38 of relocation, or any other power granted under this chapter makes
39 necessary relocating, raising, rerouting, changing the grade of, or
40 altering the construction of, a highway, railroad, electric

1 transmission line, telephone or telegraph property or facility, or
2 pipeline, the necessary action shall be accomplished at the
3 district's sole expense. (Acts 57th Leg., R.S., Ch. 65, Sec. 2
4 (part).)

5 Source Law

6 Sec. 2. . . .

7 Subsec. C. In the event that the District, in
8 the exercise of the power of eminent domain or power of
9 relocation, or any other power granted hereunder,
10 makes necessary the relocation, raising, rerouting or
11 changing the grade of, or altering the construction of
12 any highway, railroad, electric transmission line,
13 telephone or telegraph properties and facilities, or
14 pipeline, all such necessary relocation, raising,
15 rerouting, changing of grade or alteration of
16 construction shall be accomplished at the sole expense
17 of the District.

18 Revisor's Note
19 (End of Subchapter)

20 Section 3, Chapter 65, Acts of the 57th
21 Legislature, Regular Session, 1961, refers to the
22 district's power to cooperate with federal entities.
23 The revised law omits that provision because it
24 duplicates, in substance, provisions of Section
25 49.227, Water Code, which provide the district with
26 the power to act jointly with any other person or
27 entity. The omitted law reads:

28 Sec. 3. For the accomplishment of any
29 one or more of the purposes for which the
30 District is created, the District shall
31 have the power and is hereby empowered to
32 cooperate with any agency, representative,
33 instrumentality, or department of the
34 Federal Government and

35 SUBCHAPTER C. TAXES

36 Revised Law

37 Sec. 9078.0101. IMPOSITION OF MAINTENANCE TAX; ELECTION
38 PROCEDURE. (a) If approved by a majority of the voters of the
39 district voting at an election called for that purpose, the
40 district may impose a maintenance tax for the purposes of:

- 41 (1) maintaining structures;
42 (2) securing and purchasing land rights;
43 (3) purchasing rights-of-way, including moving

1 utilities;

2 (4) administering contracts; and

3 (5) paying other general operating expenses.

4 (b) A maintenance tax election shall be called and notice
5 given in the same manner as for a bond election and may be held
6 simultaneously with a bond election.

7 (c) This chapter does not prevent the calling of a
8 subsequent maintenance tax election to establish or increase the
9 amount of tax if the board determines that a maintenance tax
10 election is required. (Acts 57th Leg., R.S., Ch. 65, Sec. 3
11 (part).)

12 Source Law

13 Sec. 3. . . . For the purpose of maintaining the
14 structures, authority for the securing and purchase of
15 land rights, purchase of right-of-ways, including
16 moving of utilities, for the purpose of the
17 administering of the contracts and other general
18 operating expense, the District shall have the right
19 to levy and assess a maintenance tax; provided,
20 however, that no such maintenance tax shall be levied
21 until approved and authorized by a majority of the
22 resident qualified property taxpaying voters
23 participating at an election called for that purpose.
24 . . .

25 The election shall be called and notice given in
26 the same manner as authorized for a bond election, and
27 may be held simultaneously with such bond election,
28 but nothing herein shall prevent the calling of
29 subsequent maintenance tax elections to establish or
30 increase the amount of the tax should the directors
31 find such election is required.

32 Revisor's Note

33 (1) Section 3, Chapter 65, Acts of the 57th
34 Legislature, Regular Session, 1961, provides that the
35 district "shall have the right to levy and assess" a
36 maintenance tax. The revised law substitutes "may"
37 for "shall have the right to" because "may" is more
38 concise and is the substantive equivalent of the
39 quoted language. The revised law also substitutes
40 "impose" for "levy and assess" because "impose" is the
41 term generally used in Title 1, Tax Code, and includes
42 the levying and assessment of a tax.

43 (2) Section 3, Chapter 65, Acts of the 57th

1 Legislature, Regular Session, 1961, refers to a
2 majority vote of the "resident qualified property
3 taxpaying" voters. The revised law omits the
4 reference to "resident qualified . . . voters" as
5 unnecessary in this context because Chapter 11,
6 Election Code, governs eligibility to vote in an
7 election in this state and allows only "qualified"
8 voters who are residents of the territory covered by
9 the election to vote in an election. The revised law
10 also omits the reference to voting by persons who own
11 taxable property because in Hill v. Stone, 421 U.S. 289
12 (1975), the United States Supreme Court held that
13 property ownership as a qualification for voting is an
14 unconstitutional denial of equal protection.

15 Revised Law

16 Sec. 9078.0102. MAINTENANCE TAX RATE. In calling a
17 maintenance tax election, the board must specify the maximum
18 proposed tax rate. To impose a maintenance tax at a rate that
19 exceeds the maximum rate approved by the voters, the board must
20 submit the question of a tax rate increase to the voters. (Acts
21 57th Leg., R.S., Ch. 65, Sec. 3 (part).)

22 Source Law

23 Sec. 3. . . . In calling the election, the
24 directors shall specify the maximum rate of tax which
25 is sought to be levied, and no tax in excess of that
26 amount may be levied without submitting the question
27 of the increased rate of taxation to the electors
28 hereinabove described.
29 . . .

30 Revisor's Note

31 (1) Section 3, Chapter 65, Acts of the 57th
32 Legislature, Regular Session, 1961, limits the tax
33 that may be "levied." The revised law substitutes
34 "impose" for "levied" for the reason stated in
35 Revisor's Note (1) to Section 9078.0101.

36 (2) Section 3, Chapter 65, Acts of the 57th
37 Legislature, Regular Session, 1961, refers to

1 "electors." The revised law substitutes "voters" for
2 "electors" because "voters" is the term used in the
3 Election Code.

4 Revised Law

5 Sec. 9078.0103. TAX METHOD. (a) The district shall use the
6 ad valorem plan of taxation.

7 (b) The district is not required to conduct a hearing on the
8 adoption of a plan of taxation. (Acts 58th Leg., R.S., Ch. 275,
9 Sec. 4.)

10 Source Law

11 Sec. 4. It shall not be necessary for the
12 District to conduct or hold any hearings on the
13 adoption of a plan of taxation, but the ad valorem plan
14 of taxation shall be used by the District.

15 SUBCHAPTER D. BONDS

16 Revised Law

17 Sec. 9078.0151. DEFINITION OF NET REVENUES. In this
18 subchapter, "net revenues" or "net operating revenues" means all
19 income or increment from the ownership and operation of
20 improvements and facilities operated by the district, minus the
21 amount reasonably required to provide for the administration,
22 efficient operation, and adequate maintenance of the improvements
23 and facilities. The terms do not include money derived from
24 taxation. (Acts 58th Leg., R.S., Ch. 275, Sec. 5 (part).)

25 Source Law

26 Sec. 5. . . . The term "net operating revenues"
27 or "net revenues" as used herein shall be understood to
28 exclude any money derived from taxation but to include
29 all income and increment which may grow out of the
30 ownership and operation of the improvements or
31 facilities of the District less such part of the
32 District's revenue income as reasonably may be
33 required to provide for the administration, efficient
34 operation and adequate maintenance of such
35 improvements and facilities.
36 . . .

37 Revised Law

38 Sec. 9078.0152. AUTHORITY TO ISSUE BONDS. (a) The district
39 may issue bonds to:

40 (1) furnish land, easements, or permanent

1 improvements to land or easements;

2 (2) provide dams, structures, projects, and works of
3 improvement for flood prevention, including structural and land
4 treatment measures, and for agricultural phases of the
5 conservation, development, use, and disposal of water, and for
6 necessary facilities and equipment in connection therewith and for
7 the improvement, maintenance, and repair of the same; and

8 (3) exercise any other district power.

9 (b) Except as otherwise provided by this chapter, district
10 bonds must be authorized by a board resolution.

11 (c) District bonds may be secured by and payable wholly
12 from:

13 (1) ad valorem taxes;

14 (2) net operating revenues of the district, the net
15 revenues of any contract made, or other revenues as specified in the
16 resolution authorizing the issuance of the bonds; or

17 (3) any combination of ad valorem taxes and net
18 revenues as determined by the board.

19 (d) In a resolution authorizing the issuance of bonds
20 secured wholly or partly by district revenues, the board may
21 reserve the right under conditions specified in the resolution to
22 issue additional bonds on a parity with or subordinate to the bonds
23 being issued. (Acts 57th Leg., R.S., Ch. 65, Sec. 3 (part); Acts
24 58th Leg., R.S., Ch. 275, Sec. 5 (part); New.)

25 Source Law

26 [Acts 57th Leg., R.S., Ch. 65]

27 Sec. 3. [For the accomplishment of any one or
28 more of the purposes for which the District is created,
29 the District] . . . may issue bonds, in the manner
30 hereinafter provided, for the purpose of acquiring the
31 funds necessary to furnish land, easements or
32 permanent improvement thereon. . . .

33 [Acts 58th Leg., R.S., Ch. 275]

34 Sec. 5. For the purpose of providing dams,
35 structures, projects and works of improvement for
36 flood prevention (including structural and land
37 treatment measures) and for agricultural phases of
38 conservation, development and utilization and
39 disposal of water and for the necessary facilities and
40 equipment in connection therewith and for the
41 improvement, maintenance and repair of the same, or

1 for the purpose of carrying out any other power or
2 authority conferred upon the District by this Act or by
3 the General Laws incorporated herein, or for any
4 combination of such purposes, the District is
5 specifically authorized to issue its negotiable bonds.
6 Such bonds may be secured by and payable wholly from ad
7 valorem taxes to be levied upon all taxable property in
8 the District or wholly from not operating revenues of
9 the District or by the net revenues of any one or more
10 contracts hereafter made or other revenues as
11 specified in the resolution authorizing their
12 issuance. For the purposes herein stated the District
13 is also empowered to issue bonds secured by and payable
14 from any combination of taxes and net revenues as the
15 Board of Directors may determine. . . . In the
16 resolution authorizing the issuance of bonds supported
17 in whole or in part by revenues of the District the
18 Board of Directors may reserve the right under the
19 conditions therein specified, to issue additional
20 bonds on a parity with or subordinate to the bonds
21 being issued. . . .

22 Except as herein otherwise prescribed the bonds
23 of the District shall be authorized by resolution of
24 the Board of Directors and

25 Revisor's Note

26 (1) Section 3, Chapter 65, Acts of the 57th
27 Legislature, Regular Session, 1961, states that the
28 district may issue bonds for certain purposes "in the
29 manner hereinafter provided." The revised law omits
30 the quoted language because the subsequent portion of
31 Chapter 65 does not include any provisions on the
32 manner in which the district may issue bonds.

33 (2) Section 5, Chapter 275, Acts of the 58th
34 Legislature, Regular Session, 1963, refers to actions
35 taken in exercising the district's "power or
36 authority" under the act. The revised law omits
37 "authority" because, in this context, "authority" is
38 included in the meaning of "power."

39 (3) Section 5, Chapter 275, Acts of the 58th
40 Legislature, Regular Session, 1963, authorizes the
41 district to issue "negotiable" bonds. The revised law
42 omits the reference to "negotiable" bonds because
43 Section 1201.041, Government Code, provides that a
44 public security is a negotiable instrument. Section
45 1201.041 applies to district bonds under Sections
46 1201.002 and 1201.003, Government Code.

1 (4) Section 5, Chapter 275, Acts of the 58th
2 Legislature, Regular Session, 1963, provides that
3 district bonds may be payable wholly from "not
4 operating revenues" of the district. The revised law
5 substitutes a reference to "net operating revenues"
6 because it is clear from the context that "not
7 operating revenues" is a typographical error.

8 (5) Section 5, Chapter 275, Acts of the 58th
9 Legislature, Regular Session, 1963, authorizes the
10 district to sell bonds, except as otherwise provided
11 by Chapter 275, according to the requirements of the
12 general laws applicable to water control and
13 improvement districts. The revised law omits the
14 authority to sell bonds under those general laws
15 because Subsection B, Section 2, Chapter 65, Acts of
16 the 57th Legislature, Regular Session, 1961, and
17 Section 1, Chapter 275, Acts of the 58th Legislature,
18 Regular Session, 1963, revised in part in this chapter
19 as Section 9078.0052, provide that the district has
20 the authority conferred by general law on water
21 control and improvement districts. In addition, the
22 revised law omits the reference to exceptions in
23 Chapter 275 because such an exception would apply on
24 its own terms. The omitted law reads:

25 Sec. 5. . . .
26 [Except as herein otherwise prescribed
27 the bonds of the District] . . . may be sold
28 under the terms and provisions of the
29 General Laws of this State now in effect or
30 hereafter enacted applicable to bonds
31 issued by water control and improvement
32 districts. . . .

33 Revised Law

34 Sec. 9078.0153. SECURITY FOR REVENUE BONDS. For bonds
35 authorized to be issued that are secured by and payable wholly or
36 partly from net revenues, the board may mortgage and encumber:

37 (1) any part or all of the district's property and

1 facilities acquired or to be acquired;

2 (2) a franchise of or revenues from the operation of
3 the district's property and facilities acquired or to be acquired;
4 and

5 (3) anything pertaining to the district's property and
6 facilities acquired or to be acquired or the operation of the
7 district's property or facilities. (Acts 58th Leg., R.S., Ch. 275,
8 Sec. 5 (part).)

9 Source Law

10 Sec. 5. . . . In the case of bonds authorized to
11 be issued and which are secured by and payable wholly
12 or partially from net revenues the Board of Directors
13 is authorized to mortgage and encumber any part of or
14 all of its properties and facilities and the franchise
15 and revenues and income from the operation thereof and
16 everything pertaining thereto acquired or to be
17 acquired. . . .

18 Revisor's Note

19 Section 5, Chapter 275, Acts of the 58th
20 Legislature, Regular Session, 1963, refers to
21 "revenues and income." The revised law omits the
22 reference to "income" as included within the meaning
23 of "revenues."

24 Revised Law

25 Sec. 9078.0154. BOND ELECTION REQUIRED. (a) Bonds, other
26 than refunding bonds, may not be issued unless approved by the
27 voters of the district as provided by general law.

28 (b) If a proposition submitted at an election is defeated,
29 another election may be held in the district to vote on the same or a
30 similar proposition at a time determined by the board.

31 (c) The board may call an election under this section
32 without a petition. The resolution calling the election must
33 specify:

34 (1) the time and place at which the election will be
35 held;

36 (2) the purpose for which the bonds will be issued;

37 (3) the maximum maturity date and maximum interest

1 rate of the bonds;

2 (4) the form of the ballot; and

3 (5) the presiding judge for each voting place.

4 (d) Notice of the election must be given by publishing a
5 substantial copy of the resolution calling the election in a
6 newspaper of general circulation in the district. The notice must
7 be published once each week for two consecutive weeks. The first
8 publication must be not later than the 14th day before the date of
9 the election. (Acts 58th Leg., R.S., Ch. 275, Sec. 5 (part).)

10 Source Law

11 Sec. 5. . . .

12 It is expressly provided, however, that no bonds
13 except refunding bonds shall be issued by the District
14 until their issuance has been approved by the resident
15 qualified property taxpaying voters, whose property
16 has been duly rendered for taxation, as provided by
17 General Law; and should any proposition so submitted
18 at an election be defeated another election or
19 elections may be called and held within said District
20 to vote upon the same or similar proposition at such
21 time as the Board of Directors may determine. Bond
22 elections may be called by the Board of Directors
23 without a petition. The resolution calling the
24 election shall specify the time and places of holding
25 the same, the purpose for which the bonds are to be
26 issued, the maximum maturity thereof, the maximum
27 interest rate, the form of the ballot and the presiding
28 judge for each voting place. . . . Notice of the
29 election shall be given by publishing a substantial
30 copy of the resolution calling the election in a
31 newspaper or newspapers of general circulation in the
32 District once each week for two (2) consecutive weeks.
33 The first publication shall be at least fourteen (14)
34 days prior to the election. . . .

35 Revisor's Note

36 (1) Section 5, Chapter 275, Acts of the 58th
37 Legislature, Regular Session, 1963, refers to a
38 majority vote of the "resident qualified property
39 taxpaying voters, whose property has been duly
40 rendered for taxation." The revised law omits the
41 quoted language for the reason stated in Revisor's Note
42 (2) to Section 9078.0101.

43 (2) Section 5, Chapter 275, Acts of the 58th
44 Legislature, Regular Session, 1963, provides that
45 after a bond proposition fails at an election, a

1 subsequent bond election may be "called and held" by
2 the board. The revised law omits "called" because, in
3 this context, "called" is included in the meaning of
4 holding an election. Under Chapter 3, Election Code,
5 all elections must be ordered (called) before they may
6 be held.

7 (3) Section 5, Chapter 275, Acts of the 58th
8 Legislature, Regular Session, 1963, provides that the
9 presiding judge serving at each voting place shall
10 appoint the necessary assistant judges and clerks for
11 holding the election. The revised law omits the
12 provision as superseded by the 1985 enactment of the
13 Election Code, applicable to the district under
14 Section 1.002 of that code. Chapter 32, Election Code,
15 governs the selection of election judges and clerks.
16 The omitted law reads:

17 Sec. 5. . . . The presiding judge
18 serving at each voting place shall appoint
19 the necessary assistant judges and clerks
20 for holding such election. . . .

21 (4) Section 5, Chapter 275, Acts of the 58th
22 Legislature, Regular Session, 1963, provides that the
23 board shall receive and canvass election returns. The
24 revised law omits that provision as superseded by the
25 1985 enactment of the Election Code, applicable to the
26 district under Section 1.002 of that code. Chapter 67,
27 Election Code, provides for the canvass of elections.
28 The omitted law reads:

29 Sec. 5. . . . The returns of the
30 election shall be made to and canvassed by
31 the Board of Directors of the
32 District. . . .

33 (5) Section 5, Chapter 275, Acts of the 58th
34 Legislature, Regular Session, 1963, provides that the
35 general laws relating to elections apply to an
36 election held under that section except as otherwise
37 provided by that act. The revised law omits that

1 provision as superseded by the 1985 enactment of
2 Section 1.002, Election Code, which provides that the
3 Election Code applies to all elections held in this
4 state and that the Election Code supersedes a
5 conflicting statute unless the statute expressly
6 provides otherwise. The omitted law reads:

7 Sec. 5. . . . The General Laws
8 relating to elections shall be applicable
9 to elections held under this Section of this
10 Act, except as otherwise provided in this
11 Act.
12 . . .

13 Revised Law

14 Sec. 9078.0155. REFUNDING BONDS. (a) The district may
15 issue refunding bonds to refund outstanding district bonds and
16 interest on those bonds.

17 (b) Bonds issued to refund revenue-supported bonds may:

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

19 (2) combine the pledges for the outstanding bonds for
20 the security of the refunding bonds; and

21 (3) be secured by other or additional revenues.

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

24 (d) Instead of issuing refunding bonds to be registered on
25 the surrender and cancellation of the bonds to be refunded as
26 provided by Subsection (c), the district, in the resolution
27 authorizing the issuance of the refunding bonds, may provide for
28 the sale of the refunding bonds and the deposit of the proceeds in a
29 bank at which the bonds to be refunded are payable. In that case,
30 the refunding bonds may be issued in an amount sufficient to pay the
31 principal of and interest on the bonds to be refunded to their
32 option date or maturity date, and the comptroller shall register
33 the refunding bonds without the surrender and cancellation of the
34 bonds to be refunded. (Acts 58th Leg., R.S., Ch. 275, Sec. 5
35 (part).)

1 bonds are incontestable and binding obligations.
2 Chapter 1202, Government Code, applies to district
3 bonds by application of Sections 1202.001 and
4 1202.003(c), Government Code. The omitted law reads:

5 Sec. 5. . . .
6 All bonds of the District, including
7 refunding bonds, and the proceedings
8 pertaining to their authorization shall be
9 submitted to the Attorney General of Texas,
10 and if such bonds have been authorized in
11 accordance with the provisions hereof, he
12 shall approve the bonds which shall then be
13 registered by the Comptroller of Public
14 Accounts. Thereafter such bonds shall be
15 valid and binding and shall be
16 incontestable for any cause.

17 Revisor's Note
18 (End of Subchapter)

19 Section 5, Chapter 275, Acts of the 58th
20 Legislature, Regular Session, 1963, provides that
21 district bonds may be called, or redeemed, before
22 maturity at the time and price specified in the
23 resolution authorizing the bonds. The revised law
24 omits that provision because it duplicates in
25 substance Sections 1201.021 and 1201.022, Government
26 Code, which provide that a public security may be
27 redeemed before maturity and be payable in specified
28 amounts and at specified times. Those sections apply
29 to district bonds under Sections 1201.002 and
30 1201.003, Government Code. The omitted law reads:

31 Sec. 5. . . . Within the discretion
32 of the Board the bonds may be callable prior
33 to maturity at such times and prices as may
34 be prescribed in the resolution authorizing
35 their issuance.
36 . . .

37 Revisor's Note
38 (End of Chapter)

39 (1) Section 1, Chapter 65, Acts of the 57th
40 Legislature, Regular Session, 1961, and Section 1,
41 Chapter 275, Acts of the 58th Legislature, Regular
42 Session, 1963, validate the creation, establishment,
43 boundaries, organization, and operation of the

1 district. The revised law omits the validating
2 provisions because they served their purpose on the
3 date they took effect and are executed law. Section
4 311.031(a)(2), Government Code (Code Construction
5 Act), provides that the repeal of a statute does not
6 affect any validation previously made under the
7 statute. Therefore, the omission of each executed
8 validation provision does not affect the validation.
9 The omitted law reads:

10 [Acts 57th Leg., R.S., Ch. 65]

11 Sec. 1. [The creation and
12 establishment and boundaries of Fannin
13 County Water Control and Improvement
14 District No. 1,] . . . are hereby ratified,
15 confirmed and validated. The organization
16 of said District, the confirmation election
17 and the election of directors for the
18 District, and all proceedings relating
19 thereto, are hereby in all things and in all
20 respects ratified, confirmed, approved and
21 validated.

22 [Acts 58th Leg., R.S., Ch. 275]

23 Sec. 1. All proceedings heretofore
24 had and taken in the creation, organization
25 and operation of Fannin County Water
26 Control and Improvement District Number One
27 of Fannin County, Texas, created or sought
28 to be created under the provisions of
29 Article XVI, Section 59 of the Texas
30 Constitution and the General Laws of the
31 State enacted pursuant thereto, are hereby
32 in all things and in all respects ratified,
33 confirmed, approved and validated as of the
34 respective dates of such proceedings and
35 actions. . . .

36 (2) Section 2, Chapter 275, Acts of the 58th
37 Legislature, Regular Session, 1963, validates certain
38 district actions. The revised law omits the
39 validation because it served its purpose on the date it
40 took effect and is executed law. Section
41 311.031(a)(2), Government Code (Code Construction
42 Act), provides that the repeal of a statute does not
43 affect any validation previously made under the
44 statute. Therefore, the omission of the executed
45 validation provision does not affect the validation.
46 The omitted law reads:

1 Sec. 2. Without in anywise limiting
2 the generality of the foregoing the
3 following matters are hereby in all
4 respects ratified, confirmed, approved and
5 validated:

6 (a) All actions, orders and
7 proceedings in the calling, conducting and
8 declaring the results of the election held
9 in said District on the 20th day of June,
10 1961, whereat a majority of the resident
11 qualified property taxpaying voters of such
12 District voted in favor of the proposition
13 submitted to authorize the levy and
14 collection of taxes for the purpose of
15 operating and maintaining the District and
16 its improvements and to render proper
17 services for the purpose of its
18 organization.

19 (b) All taxes heretofore levied for
20 the purpose of operating and maintaining
21 the District and its improvements and to
22 render proper service for the purpose of its
23 organization as authorized at the election
24 referred to in (a) above.

25 (3) Section 3, Chapter 275, Acts of the 58th
26 Legislature, Regular Session, 1963, provides that the
27 district is not required to hold a hearing on the
28 exclusion of land. The revised law omits the provision
29 as executed. In the context of the general laws
30 applicable to water control and improvement districts
31 in effect in 1963, the provision is an exception to a
32 law that only would have applied to the district at the
33 time of its creation.

34 The general laws applicable to water control and
35 improvement districts in effect in 1963 required a
36 water control and improvement district to hold
37 hearings at the time of the district's creation on the
38 exclusion of certain land from the district. In
39 context, the statement in Section 3, Chapter 275, that
40 exclusion hearings are not required appears to address
41 those general law provisions. Even though the district
42 had already been created when Chapter 275 was enacted,
43 Chapter 275 essentially re-created the district by
44 validating the creation of the district by a
45 commissioners court (as described in Section 1,

1 Chapter 65, Acts of the 57th Legislature, Regular
2 Session, 1961) and stating that the district would
3 continue to exist as a conservation and reclamation
4 district.

5 The power or duty to hold a hearing to exclude
6 land subsequent to the creation of the district is
7 governed by Subchapter J, Chapter 49, Water Code,
8 which applies to the district under Sections 49.001
9 and 49.002 of that code, and Subchapter O, Chapter 51,
10 Water Code, applicable to water control and
11 improvement districts. The omitted law reads:

12 Sec. 3. [It is hereby found and
13 declared that all property now located
14 within the boundaries of said District are
15 being and will continue to be benefited by
16 the improvements to be constructed and
17 acquired and operated by the District and]
18 it shall not be necessary for the District
19 to hold any hearings for the exclusion of
20 lands or other properties therein.

21 (4) Section 6, Chapter 275, Acts of the 58th
22 Legislature, Regular Session, 1963, lists the entities
23 for which district bonds are legal investments and
24 provides that district bonds may secure deposits of
25 public funds of the state or political subdivisions.
26 The revised law omits the provision relating to the
27 eligibility of district bonds to be considered as
28 investments for various entities because it
29 duplicates, in substance, Section 49.186(a), Water
30 Code. While Section 6 lists "guardians" and Section
31 49.186(a), Water Code, does not, Section 49.186(a)
32 includes "fiduciaries," and a guardian is a fiduciary.
33 The revised law omits the provision relating to the use
34 of district bonds as security for deposits of state
35 funds as impliedly repealed by Section 404.0221,
36 Government Code (enacted in 1995), which lists
37 eligible collateral for deposits of state funds by the
38 comptroller, and by Section 404.031, Government Code

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

12 Sec. 6. All bonds of the District
13 shall be and are hereby declared to be legal
14 and authorized investments for banks,
15 savings banks, trust companies, building
16 and loan associations, insurance companies,
17 fiduciaries, trustees, guardians and for
18 the sinking funds of cities, towns,
19 villages, counties, school districts or
20 other political corporations or
21 subdivisions of the State of Texas. Such
22 bonds shall be eligible to secure the
23 deposit of any and all public funds of the
24 State of Texas and any and all public funds
25 of cities, towns, villages, counties,
26 school districts or other political
27 corporations or subdivisions of the State
28 of Texas; and such bonds shall be lawful and
29 sufficient security for said deposits to
30 the extent of their par value when
31 accompanied by all unmatured interest
32 coupons.

33 (5) Section 8, Chapter 275, Acts of the 58th
34 Legislature, Regular Session, 1963, provides that
35 Chapter 275 is cumulative of prior acts. The revised
36 law omits the provision because an accepted general
37 principle of statutory construction requires a statute
38 to be given cumulative effect with other statutes
39 unless it provides otherwise or unless the statutes
40 are inconsistent. In addition, under general rules of
41 statutory construction, a statute automatically has
42 the effect of repealing prior conflicting enactments.
43 The general principles apply to this provision. The
44 omitted law reads:

1 District of Hudspeth County, Texas."

2 Revisor's Note

3 The definitions of "board" and "director" are
4 added to the revised law for drafting convenience and
5 to eliminate frequent, unnecessary repetition of the
6 substance of the definitions.

7 Revised Law

8 Sec. 9079.0002. FINDINGS OF PUBLIC USE AND BENEFIT. (a)
9 The district is created to serve a public use and benefit.

10 (b) All land and other property included in the district
11 will benefit from the works and projects accomplished by the
12 district under the powers conferred by Section 59, Article XVI,
13 Texas Constitution. (Acts 57th Leg., R.S., Ch. 78, Sec. 9.)

14 Source Law

15 Sec. 9. It is expressly determined and found
16 that all of the land and other property included within
17 the area and boundaries of the district will be
18 benefited by the works and projects which are to be
19 accomplished by the district pursuant to the powers
20 conferred by the provisions of Article XVI, Section
21 59, of the Constitution of Texas, and that said
22 district was and is created to serve a public use and
23 benefit.

24 Revised Law

25 Sec. 9079.0003. DISTRICT TERRITORY. The district is
26 composed of the territory described by Section 5, Chapter 78, Acts
27 of the 57th Legislature, Regular Session, 1961, as that territory
28 may have been modified under:

- 29 (1) Subchapter J, Chapter 49, Water Code;
30 (2) Subchapter O, Chapter 51, Water Code; or
31 (3) other law. (New.)

32 Revisor's Note

33 The revision of the law governing the district
34 does not revise the statutory language describing the
35 territory of the district to avoid the lengthy
36 recitation of the description and because that
37 description may not be accurate on the effective date
38 of the revision or at the time of a later reading. For

1 the reader's convenience, the revised law includes
2 references to the statutory description of the
3 district's territory and to statutory authority to
4 change the district's territory under Subchapter J,
5 Chapter 49, Water Code, applicable to the district
6 under Sections 49.001 and 49.002 of that chapter, and
7 Subchapter O, Chapter 51, Water Code, applicable to
8 water control and improvement districts. The revised
9 law also includes a reference to the general authority
10 of the legislature to enact other laws to change the
11 district's territory.

12 SUBCHAPTER B. BOARD OF DIRECTORS

13 Revised Law

14 Sec. 9079.0051. NOTICE OF DIRECTORS' ELECTION. Notice of a
15 directors' election shall be posted in three or more public places
16 in the district for at least 14 days before the date of the
17 election. (Acts 57th Leg., R.S., Ch. 78, Sec. 4 (part).)

18 Source Law

19 Sec. 4. . . . Notice of directors election,
20 required by the General Laws relating to water control
21 and improvement districts to be held on the second
22 Tuesday in January of each year, shall be given by
23 posting proper notice thereof at three public places
24 within the district for at least fourteen (14) days
25 prior to the date of such election.

26 Revisor's Note

27 Section 4, Chapter 78, Acts of the 57th
28 Legislature, Regular Session, 1961, refers to regular
29 directors' elections being held on the second Tuesday
30 in January of each year in compliance with applicable
31 general law. The revised law omits this provision as
32 superseded by the 1995 enactment of Section 49.103,
33 Water Code, applicable to the district under Sections
34 49.001, 49.002, and 49.103(e), Water Code. Section
35 49.103(b), Water Code, requires the election of the
36 appropriate number of directors to be held on the
37 uniform election date in May of even-numbered years.

1 Section 49.103(e), Water Code, provides that the
2 provisions of Sections 49.103(a) and (b) take
3 precedence over all prior statutory enactments.

4 Revised Law

5 Sec. 9079.0052. DIRECTOR'S BOND. Each director shall give
6 bond in the amount of \$1,000 for the faithful performance of the
7 director's duties. (Acts 57th Leg., R.S., Ch. 78, Sec. 4 (part).)

8 Source Law

9 Sec. 4. . . . each shall give bond in the amount
10 of One Thousand Dollars (\$1,000.00) for the faithful
11 performance of his duties,

12 Revisor's Note

13 (1) Section 4, Chapter 78, Acts of the 57th
14 Legislature, Regular Session, 1961, requires each
15 director to subscribe to the constitutional oath of
16 office. The revised law omits that provision because
17 Section 1, Article XVI, Texas Constitution, requires
18 all officers to take the oath (or affirmation) before
19 assuming office. The omitted law reads:

20 Sec. 4. . . . All directors elected
21 or appointed after the effective date of
22 this Act shall subscribe to the
23 constitutional oath of office, and

24 (2) Section 4, Chapter 78, Acts of the 57th
25 Legislature, Regular Session, 1961, requires the
26 district to pay the cost of a director's bond. The
27 revised law omits that provision because it duplicates
28 in substance part of Section 49.055(c), Water Code.
29 Chapter 49 applies to the district under Sections
30 49.001 and 49.002, Water Code. The omitted law reads:

31 Sec. 4. . . . the cost of which bonds
32 shall be paid by the district. . . .

33 SUBCHAPTER C. POWERS AND DUTIES

34 Revised Law

35 Sec. 9079.0101. GENERAL POWERS AND DUTIES. The district
36 has the rights, powers, privileges, and duties provided by general
37 law applicable to a water control and improvement district created

1 under Section 59, Article XVI, Texas Constitution, including
2 Chapters 49 and 51, Water Code. (Acts 57th Leg., R.S., Ch. 78, Sec.
3 10 (part).)

4 Source Law

5 Sec. 10. The district shall have and exercise,
6 and is hereby vested with all of the rights, powers,
7 privileges, and duties conferred and imposed by the
8 General Laws of this state now in force or hereafter
9 enacted applicable to water control and improvement
10 districts created under the authority of Section 59,
11 Article 16, of the Constitution of Texas; but

12 Revisor's Note

13 (1) Section 10, Chapter 78, Acts of the 57th
14 Legislature, Regular Session, 1961, states that the
15 district "shall have and exercise, and is hereby
16 vested with" certain rights, powers, privileges, and
17 duties. The revised law substitutes "has" for the
18 quoted language because, in context, the terms are
19 synonymous and "has" is more commonly used.

20 (2) Section 10, Chapter 78, Acts of the 57th
21 Legislature, Regular Session, 1961, states that the
22 district has the rights, powers, privileges, and
23 duties "conferred and imposed" by general law. The
24 revised law substitutes "provided" for the quoted
25 language because regardless of whether a right, power,
26 privilege, or duty is "conferred" or "imposed" by
27 general law, it is not necessary to characterize in the
28 revised law the nature of the granting of that
29 authority. In context, "provided" is synonymous with
30 "conferred and imposed" and "provided" is more
31 commonly used.

32 (3) Section 10, Chapter 78, Acts of the 57th
33 Legislature, Regular Session, 1961, refers to the
34 general laws of this state "now in force or hereafter
35 enacted." The revised law omits the quoted language as
36 unnecessary under accepted general principles of
37 statutory construction. The reference to the general

1 laws means those laws "in force" at the time the
2 provision was adopted. It is unnecessary to state that
3 the district may be granted additional powers by later
4 enacted laws because those laws would apply on their
5 own terms.

6 (4) Section 10, Chapter 78, Acts of the 57th
7 Legislature, Regular Session, 1961, refers to the
8 general laws "applicable to water control and
9 improvement districts." For the reader's convenience,
10 the revised law adds references to Chapter 49, Water
11 Code, applicable to the district under Sections 49.001
12 and 49.002 of that chapter, and to Chapter 51, Water
13 Code, applicable to water control and improvement
14 districts.

15 (5) Section 10, Chapter 78, Acts of the 57th
16 Legislature, Regular Session, 1961, provides that the
17 act prevails over general law in case of a conflict or
18 other inconsistency and that all general laws
19 applicable to water control and improvement districts
20 not in conflict or inconsistent with the provisions of
21 the act are incorporated by reference. The revised law
22 omits the portion of the provision relating to the act
23 prevailing over general law because it duplicates in
24 substance Section 311.026(b), Government Code (Code
25 Construction Act). The revised law omits the portion
26 of the provision relating to incorporation of general
27 laws because the portion of Section 10, Chapter 78,
28 revised as this section already provides that those
29 laws apply to the district, and it is unnecessary to
30 further incorporate those laws in this chapter. The
31 omitted law reads:

32 Sec. 10. [The district shall have
33 . . . all of the rights, powers,
34 privileges, and duties conferred and
35 imposed by the General Laws of this state
36 . . . applicable to water control and

1 improvement districts . . . but] to the
2 extent that the provisions of any such
3 General Laws may be in conflict or
4 inconsistent with the provisions of this
5 Act, the provisions of this Act shall
6 prevail. All such General Laws are hereby
7 incorporated by reference with the same
8 effect as if incorporated in full in this
9 Act.

10 Revised Law

11 Sec. 9079.0102. COST OF RELOCATING OR ALTERING PROPERTY.

12 If the district's exercise of a power granted under this chapter
13 makes necessary relocating, raising, rerouting, changing the grade
14 of, or altering the construction of a highway, railroad, electric
15 transmission line, telephone or telegraph property or facility, or
16 pipeline, the necessary action shall be accomplished at the sole
17 expense of the district. (Acts 57th Leg., R.S., Ch. 78, Sec. 9a.)

18 Source Law

19 Sec. 9a. In the event that the district, in the
20 exercise of any powers granted herein, makes necessary
21 the relocation, raising, rerouting, or changing the
22 grade of, or altering the construction of any highway,
23 railroad, electric transmission line, telephone or
24 telegraph properties and facilities, or pipeline, all
25 such necessary relocation, raising, rerouting,
26 changing of grade or alteration of construction shall
27 be accomplished at the sole expense of the district.

28 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

29 Revised Law

30 Sec. 9079.0151. TAX METHOD. (a) The district shall use the
31 ad valorem plan of taxation, and taxes levied by the district must
32 be on the ad valorem basis.

33 (b) A hearing on a plan of taxation is not required. (Acts
34 57th Leg., R.S., Ch. 78, Sec. 8.)

35 Source Law

36 Sec. 8. The ad valorem plan of taxation is
37 hereby adopted for the district and all taxes
38 hereafter levied by the district shall be on an ad
39 valorem basis and no hearing shall be required on a
40 plan of taxation.

41 Revisor's Note

42 (1) Section 8, Chapter 78, Acts of the 57th
43 Legislature, Regular Session, 1961, provides that the
44 ad valorem plan of taxation "is hereby adopted" for the

1 district. The revised law omits the portion of the
2 provision relating to the adoption of the ad valorem
3 plan of taxation as executed.

4 (2) Section 8, Chapter 78, Acts of the 57th
5 Legislature, Regular Session, 1961, refers to "all
6 taxes hereafter levied." The revised law omits
7 "hereafter" because Section 311.022, Government Code
8 (Code Construction Act), provides that a statute
9 operates prospectively unless expressly made
10 retrospective.

11 SUBCHAPTER E. BONDS

12 Revised Law

13 Sec. 9079.0201. AUTHORITY TO ISSUE BONDS. (a) The district
14 may issue bonds if authorized by a majority of district voters
15 voting at an election held for that purpose.

16 (b) The district may issue bonds for any purpose permitted
17 to a water control and improvement district. (Acts 57th Leg., R.S.,
18 Ch. 78, Sec. 6 (part).)

19 Source Law

20 Sec. 6. The district is authorized to issue
21 bonds of the district for any and all purposes
22 permitted to water control and improvement districts
23 when such bonds shall have first been authorized by a
24 majority of the resident qualified property tax-paying
25 voters of the district who own taxable property in the
26 district and who have duly rendered the same for
27 taxation, voting at an election held within the
28 district for that purpose. . . .

29 Revisor's Note

30 Section 6, Chapter 78, Acts of the 57th
31 Legislature, Regular Session, 1961, refers to a
32 majority vote of the "resident qualified property
33 tax-paying voters of the district who own taxable
34 property in the district and who have duly rendered the
35 same for taxation." The revised law omits the
36 reference to "resident qualified . . . voters" as
37 unnecessary in this context because Chapter 11,
38 Election Code, governs eligibility to vote in an

1 election in this state and allows only qualified
2 voters who are residents of the territory covered by
3 the election to vote in an election. The revised law
4 also omits the reference to voting by persons who own
5 taxable property and render that property for taxation
6 because in Hill v. Stone, 421 U.S. 289 (1975), the
7 United States Supreme Court determined that property
8 ownership as a qualification for voting is an
9 unconstitutional denial of equal protection.

10 Revised Law

11 Sec. 9079.0202. NOTICE OF BOND ELECTION. Notice of a bond
12 election must be posted at three public places in the district for
13 at least 14 days before the date of the election. (Acts 57th Leg.,
14 R.S., Ch. 78, Sec. 6 (part).)

15 Source Law

16 Sec. 6. . . . Notice of any such bond election
17 shall be given by posting proper notice thereof at
18 three public places within the district for at least
19 fourteen (14) days prior to said election.

20 Revisor's Note
21 (End of Chapter)

22 (1) Section 1, Chapter 78, Acts of the 57th
23 Legislature, Regular Session, 1961, validates certain
24 commissioners court actions relating to the Fort
25 Hancock Municipal Water District of Hudspeth County,
26 the predecessor to the Fort Hancock Water Control and
27 Improvement District of Hudspeth County, Texas. The
28 revised law omits the validation because it served its
29 purpose on the date it took effect and is executed law.
30 Section 311.031(a)(2), Government Code (Code
31 Construction Act), provides that the repeal of a
32 statute does not affect any validation previously made
33 under the statute. Therefore, the omission of the
34 executed validation provision does not affect the
35 validation. The omitted law reads:

36 Sec. 1. All acts and proceedings of

1 the Commissioners Court of Hudspeth County,
2 Texas, in creating the Fort Hancock
3 Municipal Water District of Hudspeth
4 County, Texas, including that certain order
5 of said Commissioners Court passed on the
6 17th day of July, 1952, establishing said
7 district, be, and the same are hereby in all
8 respects validated, ratified and confirmed.

9 (2) Section 2, Chapter 78, Acts of the 57th
10 Legislature, Regular Session, 1961, validates certain
11 actions relating to the Fort Hancock Municipal Water
12 District of Hudspeth County, the predecessor to the
13 Fort Hancock Water Control and Improvement District of
14 Hudspeth County, Texas. The revised law omits the
15 validation for the reason stated in Revisor's Note (1).
16 The omitted law reads:

17 Sec. 2. The district, all
18 proceedings, including all hearings and
19 elections and notices thereof, heretofore
20 had in connection with the establishment of
21 said district, the election of directors
22 therefor, the issuance of notes of said
23 district, the Board of Directors of the
24 district and all actions of the Board of
25 Directors heretofore taken, be, and the
26 same are hereby in all respects validated,
27 ratified and confirmed.

28 (3) Section 4, Chapter 78, Acts of the 57th
29 Legislature, Regular Session, 1961, provides for the
30 board of directors of the Fort Hancock Municipal Water
31 District of Hudspeth County to be appointed the
32 initial directors of the Fort Hancock Water Control
33 and Improvement District of Hudspeth County, Texas,
34 and to serve until their successors have been elected
35 and have qualified. The revised law omits these
36 provisions as executed. The omitted law reads:

37 Sec. 4. The directors now
38 constituting the Board of Directors of the
39 Fort Hancock Municipal Water District of
40 Hudspeth County, Texas, be, and they are
41 hereby appointed as directors for the Fort
42 Hancock Water Control and Improvement
43 District of Hudspeth County, Texas, and
44 they shall serve until the next regular
45 directors election on the second Tuesday in
46 January, 1962, and until their successors
47 have duly qualified by making bond and
48 taking the oath of office. . . .

1 (4) Section 7, Chapter 78, Acts of the 57th
2 Legislature, Regular Session, 1961, provides that a
3 confirmation election and a hearing on the exclusion
4 of land are unnecessary. The revised law omits the
5 provision as executed. The provision addresses the
6 applicability of provisions of the general laws in
7 effect at the time of the district's creation that
8 governed the creation of water control and improvement
9 districts. A district created under the general laws
10 in effect at that time would have been required at the
11 time of its creation to hold both a confirmation
12 election and a hearing on the exclusion of land from
13 the district. The omitted provision negates those
14 general law requirements as inapplicable to this
15 district. The power or duty to hold a hearing to
16 exclude land subsequent to the creation of the
17 district is governed by Subchapter J, Chapter 49,
18 Water Code, which applies to the district under
19 Sections 49.001 and 49.002 of that code, and
20 Subchapter O, Chapter 51, Water Code, applicable to
21 water control and improvement districts. The omitted
22 law reads:

23 Sec. 7. No election shall be
24 necessary for the purpose of confirming the
25 organization of the district and no hearing
26 shall be necessary to determine whether any
27 lands or property included within the
28 boundaries of the district shall be
29 excluded.

30 (5) Section 11, Chapter 78, Acts of the 57th
31 Legislature, Regular Session, 1961, provides that the
32 act is severable. The revised law omits that provision
33 because the same result is produced by application of
34 Section 311.032, Government Code (Code Construction
35 Act), which provides that a provision of a statute is
36 severable from each other provision of the statute
37 that can be given effect. The omitted law reads:

1 [Acts 59th Leg., R.S., Ch. 189]
2 Sec. 1. . . . Hall and Donley Counties Water
3 Control and Improvement District Number One of Hall
4 and Donley Counties, Texas,

5 Revisor's Note

6 The definition of "district" is added to the
7 revised law for drafting convenience and to eliminate
8 frequent, unnecessary repetition of the substance of
9 the definition.

10 Revised Law

11 Sec. 9080.0002. NATURE OF DISTRICT. The district is a
12 conservation and reclamation district established under Section
13 59, Article XVI, Texas Constitution. (Acts 56th Leg., R.S.,
14 Ch. 424, Sec. 1 (part); Acts 59th Leg., R.S., Ch. 189, Sec. 1
15 (part).)

16 Source Law

17 [Acts 56th Leg., R.S., Ch. 424]
18 Sec. 1. . . . Said District shall continue to
19 exist as a conservation and reclamation district
20 pursuant to Article XVI, Section 59, of the Texas
21 Constitution and

22 [Acts 59th Leg., R.S., Ch. 189]
23 Sec. 1. . . . Said District shall continue to
24 exist as a conservation and reclamation district
25 pursuant to Article XVI, Section 59, of the Texas
26 Constitution and

27 Revised Law

28 Sec. 9080.0003. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

29 (a) The district is essential to the accomplishment of the
30 preservation and conservation of the natural resources of this
31 state.

32 (b) All land and other property in the district will benefit
33 from the district and the district's improvements and from the
34 preservation and conservation of the natural resources of this
35 state.

36 (c) This chapter addresses a subject in which the state is
37 interested. (Acts 56th Leg., R.S., Ch. 424, Sec. 7 (part); Acts
38 59th Leg., R.S., Ch. 189, Secs. 2 (part), 7 (part).)

1 59th Legislature, Regular Session, 1965, refers to
2 "all lands and other property" in the district. The
3 revised law omits "all other land and property"
4 because "all lands and other property" is the more
5 commonly used phrase. Section 7, Chapter 424, and
6 Section 7, Chapter 189, do not contain a prior
7 reference to any type of land before referring to
8 "other land" and, therefore, the phrase "all other
9 land and property" is likely a typographical error.

10 Revised Law

11 Sec. 9080.0004. DISTRICT TERRITORY. (a) The district is
12 composed of the territory described by Section 2, Chapter 189, Acts
13 of the 59th Legislature, Regular Session, 1965, as that territory
14 may have been modified under:

- 15 (1) Subchapter J, Chapter 49, Water Code;
16 (2) Subchapter O, Chapter 51, Water Code; or
17 (3) other law.

18 (b) The district includes all land and property in the
19 district's territory. (Acts 59th Leg., R.S., Ch. 189, Sec. 2
20 (part); New.)

21 Source Law

22 Sec. 2. [The boundaries of said District
23 heretofore and herein established as follows:]
24 . . .
25 . . . said District shall embrace all land and
26 property contained within the area delineated by said
27 boundaries. . . .

28 Revisor's Note

29 (1) Section 2, Chapter 189, Acts of the 59th
30 Legislature, Regular Session, 1965, includes
31 statutory language describing the boundaries of the
32 district as those boundaries existed at the time
33 Chapter 189 was enacted. The revision of the law
34 governing the district does not revise the statutory
35 language describing the territory of the district to
36 avoid the lengthy recitation of the description and

1 because that description may not be accurate on the
2 effective date of the revision or at the time of a
3 later reading. For the reader's convenience, the
4 revised law includes references to the statutory
5 description of the district's territory in Chapter 189
6 and to statutory authority to change the district's
7 territory under Subchapter J, Chapter 49, Water Code,
8 applicable to the district under Sections 49.001 and
9 49.002 of that chapter, and under Subchapter O,
10 Chapter 51, Water Code, applicable to water control
11 and improvement districts. The revised law also
12 includes a reference to the general authority of the
13 legislature to enact other laws to change the
14 district's territory.

15 (2) Section 2, Chapter 424, Acts of the 56th
16 Legislature, Regular Session, 1959, includes
17 statutory language describing the boundaries of the
18 district as those boundaries existed at the time
19 Chapter 424 was enacted. Under Section 311.025,
20 Government Code (Code Construction Act), if statutes
21 enacted at the same or different sessions of the
22 legislature are irreconcilable, the statute latest in
23 date of enactment prevails. Because the boundaries in
24 Chapter 189 are different from, and therefore
25 irreconcilable with, the boundaries in Chapter 424,
26 and Chapter 189 was enacted after Chapter 424, the
27 revised law omits any reference to the outdated
28 boundaries in Chapter 424. The omitted law reads:

29 Sec. 2. The boundaries of said
30 District heretofore and herein established
31 as follows:

32 BEGINNING at the Southwest corner of
33 Section No. 18, Block 2, T. & P. Ry. Co.
34 Survey in Hall County, Texas, a point on the
35 North bank of the Prairie Dog Town Fork of
36 Red River;

37 THENCE North with section lines to the
38 Northeast corner of Section 87, Block 2, T.
39 & P. Ry. Co. Survey;

1 THENCE West with the North line of said
2 Section No. 87, to its Northwest corner;
3 THENCE North with the West line of
4 Section 98, Blk. 2, T. & P. Ry. Co. to its
5 Northwest corner;
6 THENCE West with the South line of
7 Section 120, Block 2, T. & P. Ry. Co. Survey
8 to its Southwest corner;
9 THENCE North along the West lines of
10 Section 120, T. & P. Ry. Co., Block 2, and
11 Section 12, Block 2, J. Poitevent to the
12 South line of Block B, John G. Adair Survey,
13 crossing Block 1, C. L. Benson, and Section
14 5, Block X, W. H. Martin, and intersecting
15 the South line of Section 6, Block B, John
16 G. Adair, East of its Southwest corner and
17 East of the Northwest corner of Section 5,
18 Block X;
19 THENCE West to the Southwest corner of
20 Section 6, Block B, John G. Adair;
21 THENCE North with its West line to the
22 Southwest corner of Section 11, Block B,
23 John G. Adair;
24 THENCE North to the Northwest corner
25 of said section 11;
26 THENCE West to a point in the East line
27 of Section 8, W. H. Martin;
28 THENCE North to the Northeast corner
29 of said Section 8, W. H. Martin;
30 THENCE North along section lines to
31 the Northwest corner of Section 33, Block
32 G-7, Adair and Goodnight Survey in Donley
33 County, Texas;
34 THENCE East to the Southwest corner of
35 Section 29, Block G-7, Adair and Goodnight;
36 THENCE North with section lines to the
37 Northwest corner of Section 28, Blk G-7,
38 Adair & Goodnight Survey;
39 THENCE East along section lines to the
40 Southwest corner of Section 26, Block G-7,
41 Adair & Goodnight Survey and the said point
42 also being the most northerly Southeast
43 corner of Section No. 27, Block G-7, Adair
44 and Goodnight;
45 THENCE North to the Northwest corner
46 of said Section 26;
47 THENCE East to the Northeast corner of
48 said Section 26;
49 THENCE North to the Northwest corner
50 of Section 167, Block E. D. & P. Ry. Co.;
51 THENCE East to the NE corner of Section
52 132, Block C6, G. C. & S. F. RR Co.;
53 THENCE South to the NE corner of
54 Section No. 134, Block C6, G. C. & S. F. RR
55 Co.;
56 THENCE East to the Southwest corner of
57 Section 71, Block 20, H. & G. N. Ry. Co.;
58 THENCE East to the Southwest corner of
59 Section 73, Block No. 20, H. & G. N. Ry.
60 Co.;
61 THENCE South to the Northwest corner
62 of Section 28, Block 20, H. & G. N. Ry. Co.
63 Survey;
64 THENCE East along the North line of
65 Section 28, Block 20, H. & G. N. Ry. Co. to
66 its Northeast corner;
67 THENCE South along section lines to
68 the Southeast corner of Section 18 of Block

1 18, H. & G. N. RR Co. ;
2 THENCE West to the Northeast corner of
3 Block 1, Section 115, S. P. R. R. Co. ;
4 THENCE South to the Southeast corner
5 of same ;
6 THENCE East to the Northeast corner of
7 Section 107, Block 1, S. P. R. R. Co. ;
8 THENCE South to the Southeast corner
9 of Section 53, Block 1, S. P. R. R. Co.
10 Survey, a point on the North bank of the
11 Prairie Dog Town Fork of Red River in Hall
12 County, Texas ;
13 THENCE Westerly with said North bank
14 following the meanders of said river and
15 section lines to the BEGINNING ; . . . said
16 District shall embrace all land and
17 property contained within the area
18 delineated by said boundaries. It is hereby
19 found and determined that all lands and
20 other property included within the
21 aforesaid boundaries are and will be
22 benefited by the District and its
23 improvements and

24 Revised Law

25 Sec. 9080.0005. LIBERAL CONSTRUCTION OF CHAPTER. This
26 chapter shall be liberally construed to effect the purpose and
27 objectives stated in this chapter. (Acts 56th Leg., R.S., Ch. 424,
28 Sec. 7 (part); Acts 59th Leg., R.S., Ch. 189, Sec. 7 (part).)

29 Source Law

30 [Acts 56th Leg., R.S., Ch. 424]

31 Sec. 7. . . . All terms and provisions of this
32 Act are to be liberally construed to effectuate the
33 purpose and objectives herein set forth.

34 [Acts 59th Leg., R.S., Ch. 189]

35 Sec. 7. . . . All terms and provisions of this
36 Act are to be liberally construed to effectuate the
37 purpose and objectives herein set forth.

38 SUBCHAPTER B. BOARD OF DIRECTORS

39 Revised Law

40 Sec. 9080.0051. COMPOSITION OF BOARD. The district's board
41 of directors is composed of five elected directors. (New.)

42 Revisor's Note

43 (1) Section 4, Chapter 424, Acts of the 56th
44 Legislature, Regular Session, 1959, and Section 4,
45 Chapter 189, Acts of the 59th Legislature, Regular
46 Session, 1965, each validate the appointment or
47 election of five named directors of the district,
48 provide that those directors continue to serve until

1 their successors are elected, and establish the dates
2 that the terms of the named directors expire. The
3 revised law omits those provisions as executed. For
4 the reader's convenience, the revised law substitutes
5 a provision that states the board is composed of five
6 elected directors, which conforms with the number of
7 named directors in Section 4, Chapter 424, and Section
8 4, Chapter 189, and the requirement that successors be
9 elected. The omitted law reads:

10 [Acts 56th Leg., R.S., Ch. 424]

11 Sec. 4. The appointment and/or
12 election of Directors of said District, to
13 wit: Oren Jones, Luther Neighbors, C. L.
14 Benson, David Hudgins, and Del E. Wells, is
15 hereby ratified, confirmed, approved and
16 validated and such directors shall continue
17 to serve until their successors have been
18 duly elected and duly qualified as provided
19 by General Law pertaining to Water Control
20 and Improvement Districts. The term of the
21 first two named directors shall expire
22 January, 1960, and the term of the last
23 three named directors shall expire January,
24 1961. . . .

25 [Acts 59th Leg., R.S., Ch. 189]

26 Sec. 4. The appointment and/or
27 election of directors of said District, to
28 wit: Paul Montgomery, O. E. Gardenhire,
29 Joyce Webster, J. B. Byars and C. V. Murff
30 is hereby ratified, confirmed, approved and
31 validated, and such directors shall
32 continue to serve until their successors
33 have been duly elected and duly qualified as
34 provided by general law pertaining to Water
35 Control and Improvement Districts. The term
36 of the first three named directors shall
37 expire January, 1966, and the term of the
38 last two named directors shall expire
39 January, 1967. . . .

40 (2) Section 4, Chapter 424, Acts of the 56th
41 Legislature, Regular Session, 1959, and Section 4,
42 Chapter 189, Acts of the 59th Legislature, Regular
43 Session, 1965, provide that successor directors serve
44 terms of two years. The revised law omits that
45 provision because it was superseded by Section
46 49.103(a), Water Code, enacted in 1995, which applies
47 to the district under Sections 49.103(e), 49.001(a),
48 and 49.002, Water Code, and provides that directors

1 serve staggered four-year terms. The omitted law
2 reads:

3 [Acts 56th Leg., R.S., Ch. 424]
4 Sec. 4. . . . Successors in office
5 shall serve for terms of two years.

6 [Acts 59th Leg., R.S., Ch. 189]
7 Sec. 4. . . . Successors in office
8 shall serve for terms of two years.

9 SUBCHAPTER C. POWERS AND DUTIES

10 Revised Law

11 Sec. 9080.0101. GENERAL POWERS. The district may exercise
12 the powers essential to the accomplishment of the purposes of
13 Section 59, Article XVI, Texas Constitution, and may exercise the
14 rights, powers, privileges, and functions implied by that section.
15 (Acts 56th Leg., R.S., Ch. 424, Sec. 1 (part); Acts 59th Leg.,
16 R.S., Ch. 189, Sec. 1 (part).)

17 Source Law

18 [Acts 56th Leg., R.S., Ch. 424]
19 Sec. 1. . . . [Said District shall continue to
20 exist as a conservation and reclamation district
21 pursuant to Article XVI, Section 59, of the Texas
22 Constitution and] shall be recognized to exercise all
23 of the powers and be a governmental agency and body
24 politic and corporate essential to the accomplishment
25 of the purposes of said constitutional provisions and
26 created to exercise such rights, powers, privileges
27 and functions as may be contemplated or implied by the
28 aforesaid constitutional provision,

29 [Acts 59th Leg., R.S., Ch. 189]
30 Sec. 1. . . . [Said District shall continue to
31 exist as a conservation and reclamation district
32 pursuant to Article XVI, Section 59, of the Texas
33 Constitution and] shall be recognized to exercise all
34 of the powers and be a governmental agency and body
35 politic and corporate essential to the accomplishment
36 of the purposes of said Constitutional provisions and
37 created to exercise such rights, powers, privileges
38 and functions as may be contemplated or implied by the
39 aforesaid Constitutional provision,

40 Revisor's Note

41 (1) Section 1, Chapter 424, Acts of the 56th
42 Legislature, Regular Session, 1959, and Section 1,
43 Chapter 189, Acts of the 59th Legislature, Regular
44 Session, 1965, provide that the district is a
45 "governmental agency and body politic and corporate."
46 The revised law omits that provision because it

1 duplicates a portion of Section 59(b), Article XVI,
2 Texas Constitution, which provides that a conservation
3 and reclamation district is a governmental agency and
4 a body politic and corporate.

5 (2) Section 1, Chapter 424, Acts of the 56th
6 Legislature, Regular Session, 1959, and Section 1,
7 Chapter 189, Acts of the 59th Legislature, Regular
8 Session, 1965, refer to rights, powers, privileges,
9 and functions that are "contemplated or implied" by
10 Section 59, Article XVI, Texas Constitution. The
11 revised law omits "contemplated" because the meaning
12 of the term is included in the meaning of "implied."

13 (3) Section 1, Chapter 424, Acts of the 56th
14 Legislature, Regular Session, 1959, and Section 1,
15 Chapter 189, Acts of the 59th Legislature, Regular
16 Session, 1965, state that the district "shall be
17 recognized to exercise" certain powers and "[shall be]
18 created to exercise" certain rights, powers,
19 privileges, and functions. The revised law
20 substitutes "may exercise" for the quoted language
21 because "may exercise" is more concise and is the
22 substantive equivalent of the quoted language. The
23 revised law also omits the reference to the district as
24 "created" for specific purposes as executed.

25 Revised Law

26 Sec. 9080.0102. WATER CONTROL AND IMPROVEMENT DISTRICT
27 POWERS. The district has the rights, powers, privileges, and
28 functions provided by general law applicable to a water control and
29 improvement district, including Chapters 49 and 51, Water Code.
30 (Acts 56th Leg., R.S., Ch. 424, Sec. 1 (part); Acts 59th Leg.,
31 R.S., Ch. 189, Sec. 1 (part).)

32 Source Law

33 [Acts 56th Leg., R.S., Ch. 424]
34 Sec. 1. . . . [Said District shall continue to
35 exist as a conservation and reclamation district

1 pursuant to Article XVI, Section 59, of the Texas
2 Constitution and shall be recognized to exercise all
3 of the powers and be a governmental agency and body
4 politic and corporate essential to the accomplishment
5 of the purposes of said constitutional provisions and
6 created to exercise such rights, powers, privileges
7 and functions as may be contemplated or implied by the
8 aforesaid constitutional provision,] also those now or
9 hereafter conferred by the General Laws of the State
10 relating to Water Control and Improvement Districts
11 wherein not in conflict with this Act.

12 [Acts 59th Leg., R.S., Ch. 189]

13 Sec. 1. . . . [Said District shall continue to
14 exist as a conservation and reclamation district
15 pursuant to Article XVI, Section 59, of the Texas
16 Constitution and shall be recognized to exercise all
17 of the powers and be a governmental agency and body
18 politic and corporate essential to the accomplishment
19 of the purposes of said Constitutional provisions and
20 created to exercise such rights, powers, privileges
21 and functions as may be contemplated or implied by the
22 aforesaid Constitutional provision,] also those now or
23 hereafter conferred by the General Laws of the State
24 relating to Water Control and Improvement Districts
25 wherein not in conflict with this Act.

26 Revisor's Note

27 (1) Section 1, Chapter 424, Acts of the 56th
28 Legislature, Regular Session, 1959, and Section 1,
29 Chapter 189, Acts of the 59th Legislature, Regular
30 Session, 1965, state that the district has the rights,
31 powers, privileges, and functions "now or hereafter
32 conferred" by the general laws of this state. The
33 revised law omits the quoted phrase as unnecessary
34 under accepted general principles of statutory
35 construction. The "General Laws of the State" means
36 those laws in effect at the time the provision was
37 enacted. It is not necessary to state that the
38 district may be granted additional powers by later
39 enacted laws because those laws will apply on their own
40 terms.

41 (2) Section 1, Chapter 424, Acts of the 56th
42 Legislature, Regular Session, 1959, and Section 1,
43 Chapter 189, Acts of the 59th Legislature, Regular
44 Session, 1965, refer to the general laws applicable to
45 water control and improvement districts. For the
46 reader's convenience, the revised law adds references

1 to Chapter 49, Water Code, applicable to the district
2 under Sections 49.001 and 49.002 of that chapter, and
3 Chapter 51, Water Code, applicable to water control
4 and improvement districts.

5 (3) Section 1, Chapter 424, Acts of the 56th
6 Legislature, Regular Session, 1959, and Section 1,
7 Chapter 189, Acts of the 59th Legislature, Regular
8 Session, 1965, provide that the district has the
9 rights, powers, privileges, and functions provided by
10 general law to water control and improvement districts
11 "wherein not in conflict with this Act." The revised
12 law omits the quoted language because that language
13 duplicates, in substance, Section 311.026(b),
14 Government Code (Code Construction Act), which
15 provides that if there is a conflict between a general
16 provision of law and a special or local provision, the
17 special or local provision prevails unless the general
18 provision is the later enactment and the manifest
19 intent is that the general provision prevail.

20 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

21 Revised Law

22 Sec. 9080.0151. TAX METHOD. (a) The district shall use the
23 ad valorem plan of taxation.

24 (b) The district is not required to have a hearing on the
25 plan of taxation. (Acts 56th Leg., R.S., Ch. 424, Sec. 5; Acts 59th
26 Leg., R.S., Ch. 189, Sec. 5.)

27 Source Law

28 [Acts 56th Leg., R.S., Ch. 424]

29 Sec. 5. All taxes levied by the District shall
30 be on the ad valorem basis and it shall not be
31 necessary for the District to have any hearings on the
32 plan of taxation.

33 [Acts 59th Leg., R.S., Ch. 189]

34 Sec. 5. All taxes levied by the District shall
35 be on the ad valorem basis and it shall not be
36 necessary for the District to have any hearings on the
37 plan of taxation.

1 Engineers in creating the District and all
2 actions, orders, or other proceedings in
3 the calling, conducting, and declaring the
4 results of the election for the
5 confirmation of such District and the
6 election of Directors therefor.

7 (b) All actions of the Board of
8 Directors of the District in authorizing
9 the levying, assessment and collection of
10 taxes for the said District and in adopting
11 its tax rolls.

12 [Acts 59th Leg., R.S., Ch. 189]

13 Sec. 1. All proceedings and actions
14 heretofore had and taken in the creation,
15 organization and operation of [Hall and
16 Donley Counties Water Control and
17 Improvement District Number One of Hall and
18 Donley Counties, Texas,] created or sought
19 to be created under the provisions of
20 Article XVI, Section 59, of the Texas
21 Constitution and the General Laws of the
22 State enacted pursuant thereto, are hereby
23 in all things and in all respects ratified,
24 confirmed, approved and validated as of the
25 respective dates of such proceedings and
26 actions notwithstanding that any of such
27 proceedings and actions may not have been
28 had or accomplished in all respects in
29 strict accordance with the appropriate
30 statutory provisions relating thereto.

31 . . .
32 Sec. 2. [The boundaries of said
33 District heretofore and herein established
34 as follows:]

35 . . .
36 . . . are hereby in all things and in
37 all respects ratified, confirmed, approved
38 and validated and

39 Sec. 3. Without in anywise limiting
40 the generality of the foregoing the
41 following matters are hereby in all things
42 and in all respects ratified, confirmed,
43 approved and validated:

44 (a) All actions, orders, or other
45 proceedings of the State Board of Water
46 Engineers in creating the District and all
47 actions, orders, or other proceedings in
48 the calling, conducting, and declaring the
49 results of the election for the
50 confirmation of such District and the
51 election of Directors therefor.

52 (b) All actions of the Board of
53 Directors of the District in authorizing
54 the levying, assessment and collection of
55 taxes for the said District and in adopting
56 its tax rolls.

57 (2) Section 2, Chapter 424, Acts of the 56th
58 Legislature, Regular Session, 1959, and Section 2,
59 Chapter 189, Acts of the 59th Legislature, Regular
60 Session, 1965, provide that the district is not
61 required to hold hearings to exclude territory and

1 that "no exclusions shall be made." The revised law
2 omits those exclusion provisions as executed. In the
3 context of the general laws applicable to water
4 control and improvement districts in effect in 1959
5 and 1965, the provisions are exceptions to a law that
6 would only have applied to the district at the time of
7 its creation. The general laws applicable to water
8 control and improvement districts in effect in 1959
9 and 1965 required a water control and improvement
10 district to hold hearings at the time of the district's
11 creation on the exclusion of certain land from the
12 district.

13 In context, the statements in Section 2, Chapter
14 424, and Section 2, Chapter 189, that exclusion
15 hearings are not required appear to address those
16 general law provisions. Even though the district had
17 already been created when Chapters 424 and 189 were
18 enacted, those chapters essentially re-created the
19 district by validating the creation of the district by
20 the State Board of Water Engineers (as described in
21 Section 3, Chapter 424, and Section 3, Chapter 189) and
22 stating that the district would continue to exist as a
23 conservation and reclamation district.

24 The power or duty to hold a hearing to exclude
25 land subsequent to the creation of the district is
26 governed by Subchapter J, Chapter 49, Water Code,
27 which applies to the district under Sections 49.001
28 and 49.002 of that code, and Subchapter O, Chapter 51,
29 Water Code, applicable to water control and
30 improvement districts. The omitted law reads:

31 [Acts 56th Leg., R.S., Ch. 424]
32 Sec. 2. . . . [It is hereby found and
33 determined that all lands and other
34 property included within the aforesaid
35 boundaries are and will be benefited by the
36 District and its improvements and] it shall
37 not be necessary for the District to hold

1 any exclusion hearings and no exclusions
2 shall be made.

3 [Acts 59th Leg., R.S., Ch. 189]

4 Sec. 2. . . . [It is hereby found and
5 determined that all lands and other
6 property included within the aforesaid
7 boundaries are and will be benefited by the
8 District and its improvements and] it shall
9 not be necessary for the District to hold
10 any exclusion hearings and no exclusions
11 shall be made.

12 (3) Section 6, Chapter 424, Acts of the 56th
13 Legislature, Regular Session, 1959, and Section 6,
14 Chapter 189, Acts of the 59th Legislature, Regular
15 Session, 1965, list the entities for which district
16 bonds are legal investments and provide that district
17 bonds may secure deposits of public funds of the state
18 or political subdivisions. The revised law omits the
19 provisions relating to the eligibility of district
20 bonds to be considered as investments for various
21 entities because they duplicate, in substance, Section
22 49.186(a), Water Code, applicable to the district
23 under Sections 49.001 and 49.002 of that code. While
24 both sections list "guardians" and Section 49.186(a),
25 Water Code, does not, Section 49.186(a) includes
26 "fiduciaries," and a guardian is a fiduciary. The
27 revised law omits the provisions relating to the use of
28 district bonds as security for deposits of state funds
29 as impliedly repealed by Section 404.0221, Government
30 Code (enacted in 1995), which lists eligible
31 collateral for deposits of state funds by the
32 comptroller, and by Section 404.031, Government Code
33 (enacted in 1985 as Section 3.001, Article 4393-1,
34 Vernon's Texas Civil Statutes), which provides for the
35 valuation of that collateral. As to securing deposits
36 of other funds, the provisions are impliedly repealed
37 by Chapter 2257, Government Code (enacted in 1989 as
38 Article 2529d, Vernon's Texas Civil Statutes), which
39 governs eligible collateral for deposits of funds of

1 other public agencies, including political
2 subdivisions, and permits those deposits to be secured
3 by obligations issued by conservation and reclamation
4 districts. The omitted law reads:

5 [Acts 56th Leg., R.S., Ch. 424]

6 Sec. 6. All bonds of the District
7 shall be and are hereby declared to be legal
8 and authorized investments for banks,
9 savings banks, trust companies, building
10 and loan associations, insurance companies,
11 fiduciaries, trustees, guardians, and for
12 the sinking funds of cities, towns,
13 villages, counties, school districts or
14 other political corporations or
15 subdivisions of the State of Texas. Such
16 bonds shall be eligible to secure the
17 deposit of any and all public funds of the
18 State of Texas and any and all public funds
19 of cities, towns, villages, counties,
20 school districts or other political
21 corporations or subdivisions of the State
22 of Texas; and such bonds shall be lawful and
23 sufficient security for said deposits to
24 the extent of their par value.

25 [Acts 59th Leg., R.S., Ch. 189]

26 Sec. 6. All bonds of the District
27 shall be and are hereby declared to be legal
28 and authorized investments for banks,
29 savings banks, trust companies, building
30 and loan associations, insurance companies,
31 fiduciaries, trustees, guardians, and for
32 the sinking funds of cities, towns,
33 villages, counties, school districts or
34 other political corporations or
35 subdivisions of the State of Texas. Such
36 bonds shall be eligible to secure the
37 deposit of any and all public funds of the
38 State of Texas and any and all public funds
39 of cities, towns, villages, counties,
40 school districts or other political
41 corporations or subdivisions of the State
42 of Texas; and such bonds shall be lawful and
43 sufficient security for said deposits to
44 the extent of their par value.

45 CHAPTER 9083. HUDSPETH COUNTY WATER CONTROL AND IMPROVEMENT

46 DISTRICT NO. 1

47 SUBCHAPTER A. GENERAL PROVISIONS

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9 CHAPTER 9083. HUDSPETH COUNTY WATER CONTROL AND IMPROVEMENT
10 DISTRICT NO. 1

11 SUBCHAPTER A. GENERAL PROVISIONS

12 Revised Law

13 Sec. 9083.0001. DEFINITION. In this chapter, "district"
14 means the Hudspeth County Water Control and Improvement District
15 No. 1. (Acts 56th Leg., R.S., Ch. 299, Sec. 1 (part); New.)

16 Source Law

17 Sec. 1. . . . Hudspeth County Water Control and
18 Improvement District Number One of Hudspeth County,
19 Texas,

20 Revisor's Note

21 The definition of "district" is added to the
22 revised law for drafting convenience and to eliminate
23 frequent, unnecessary repetition of the substance of
24 the definition.

25 Revised Law

26 Sec. 9083.0002. NATURE OF DISTRICT. The district is a
27 conservation and reclamation district established under Section
28 59, Article XVI, Texas Constitution. (Acts 56th Leg., R.S., Ch.
29 299, Secs. 1 (part), 7 (part).)

30 Source Law

31 Sec. 1. . . . Said District shall continue to
32 exist as a conservation and reclamation district
33 pursuant to Article XVI, Section 59 of the Texas
34 Constitution and

35 Sec. 7. . . . said District is established
36 under the provisions of Section 59 of Article XVI of
37 the Texas Constitution;

1 Revised Law

2 Sec. 9083.0003. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

3 (a) The district is essential to the accomplishment of the
4 preservation and conservation of the natural resources of the
5 state.

6 (b) All land and other property included in the district
7 will benefit from the district, the district's improvements, and
8 the purposes for which the district is created.

9 (c) This chapter addresses a subject in which the state is
10 interested. (Acts 56th Leg., R.S., Ch. 299, Secs. 2 (part), 7
11 (part).)

12 Source Law

13 Sec. 2. [The boundaries of said District
14 heretofore and herein established as follows:]
15 It is hereby found and determined that all lands and
16 other property included within the aforesaid
17 boundaries are and will be benefited by the District
18 and its improvements.

19 Sec. 7. [The Legislature hereby declares that
20 said District is established under the provisions of
21 Section 59 of Article XVI of the Texas Constitution;
22 that the enactment hereof is in fulfillment of a duty
23 imposed by said Constitutional provision to pass such
24 laws as may be appropriate in the preservation and
25 conservation of the natural resources of the state;]
26 that said District is essential to the accomplishment
27 of these purposes; that this Act operates upon a
28 subject in which the state at large is interested; that
29 all other land and property located within the limits
30 of the District is and will be benefited by the
31 purposes for which the District is created. . . .

32 Revised Law

33 Sec. 9083.0004. DISTRICT TERRITORY. (a) The district is
34 composed of the territory described by Section 2, Chapter 299, Acts
35 of the 56th Legislature, Regular Session, 1959, as that territory
36 may have been modified under:

- 37 (1) Subchapter J, Chapter 49, Water Code;
38 (2) Subchapter O, Chapter 51, Water Code; or
39 (3) other law.

40 (b) The district shall include all land and property in the
41 district's territory. (Acts 56th Leg., R.S., Ch. 299, Sec. 2
42 (part); New.)

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Source Law

Sec. 2. [The boundaries of said District heretofore and herein established as follows:] . . . said District shall embrace all land and property contained within the area delineated by said boundaries. . . .

Revisor's Note

The revision of the law governing the district does not revise the statutory language describing the territory of the district 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 references to the statutory description of the district's territory and to 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 chapter, and Subchapter O, Chapter 51, Water Code, applicable to water control and improvement districts. The revised law also includes a reference to the general authority of the legislature to enact other laws to change the district's territory.

Revised Law

Sec. 9083.0005. LIBERAL CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed to effect its purposes. (Acts 56th Leg., R.S., Ch. 299, Sec. 7 (part).)

Source Law

Sec. 7. . . . All terms and provisions of this Act are to be liberally construed to effectuate the purpose and objectives herein set forth.

Revisor's Note

Section 7, Chapter 299, Acts of the 56th Legislature, Regular Session, 1959, refers to the "purpose and objectives" set forth in that act. The revised law omits "objectives" as included in the

1 meaning of "purpose."

2 Revisor's Note
3 (End of Subchapter)

4 Section 7, Chapter 299, Acts of the 56th
5 Legislature, Regular Session, 1959, contains a
6 legislative declaration of a constitutional "duty" to
7 enact Chapter 299 as law. The revised law omits the
8 declaration by the legislature as executed and because
9 it has no substantive effect. The omitted law reads:

10 Sec. 7. The Legislature hereby
11 declares that [said District is established
12 under the provisions of Section 59 of
13 Article XVI of the Texas Constitution;]
14 that the enactment hereof is in fulfillment
15 of a duty imposed by said Constitutional
16 provision to pass such laws as may be
17 appropriate in the preservation and
18 conservation of the natural resources of
19 the state;

20 SUBCHAPTER B. BOARD OF DIRECTORS

21 Revised Law

22 Sec. 9083.0051. COMPOSITION OF BOARD. The board of
23 directors is composed of five elected directors. (New.)

24 Revisor's Note

25 (1) Section 4, Chapter 299, Acts of the 56th
26 Legislature, Regular Session, 1959, validates the
27 appointment or election of five named directors of the
28 district, provides that those directors continue to
29 serve until their successors are elected, and
30 establishes the dates that the terms of the named
31 directors expire. The revised law omits those
32 provisions as executed. For the reader's convenience,
33 the revised law substitutes a provision that states
34 the board is composed of five elected directors, which
35 conforms with the number of named directors in Section
36 4 and the requirement that successors be elected. The
37 omitted law reads:

38 Sec. 4. The appointment and/or
39 election of Directors of said District,
40 to-wit: Gene Wells, Manuel Lujan, Tom D.

1 Ellison, L. A. Snyder, and Clyde Fields is
2 hereby ratified, confirmed, approved and
3 validated and such Directors shall continue
4 to serve until their successors have been
5 duly elected and duly qualified as provided
6 by general law pertaining to Water Control
7 and Improvement Districts. The term of the
8 first two named Directors shall expire
9 January 1960, and the term of the last three
10 named Directors shall expire January
11 1961. . . .

12 (2) Section 4, Chapter 299, Acts of the 56th
13 Legislature, Regular Session, 1959, provides that
14 successor directors serve terms of two years. The
15 revised law omits that provision because it was
16 superseded by Section 49.103(a), Water Code, enacted
17 in 1995, which applies to the district under Sections
18 49.103(e), 49.001(a), and 49.002, Water Code, and
19 provides that directors serve staggered four-year
20 terms. The omitted law reads:

21 Sec. 4. . . . Successors in office
22 shall serve for terms of two years.

23 SUBCHAPTER C. POWERS AND DUTIES

24 Revised Law

25 Sec. 9083.0101. GENERAL POWERS. The district may exercise
26 the powers essential to the accomplishment of the purposes of
27 Section 59, Article XVI, Texas Constitution, and may exercise the
28 rights, powers, privileges, and functions implied by that section.
29 (Acts 56th Leg., R.S., Ch. 299, Sec. 1 (part).)

30 Source Law

31 Sec. 1. . . . [Said District shall continue to
32 exist as a conservation and reclamation district
33 pursuant to Article XVI, Section 59 of the Texas
34 Constitution and] shall be recognized to exercise all
35 of the powers and be a governmental agency and body
36 politic and corporate essential to the accomplishment
37 of the purposes of said constitutional provisions and
38 created to exercise such rights, powers, privileges
39 and functions as may be contemplated or implied by the
40 aforesaid constitutional provision,

41 Revisor's Note

42 (1) Section 1, Chapter 299, Acts of the 56th
43 Legislature, Regular Session, 1959, provides that the
44 district is a "governmental agency and body politic

1 and corporate." The revised law omits that provision
2 because it duplicates a portion of Section 59(b),
3 Article XVI, Texas Constitution, which provides that a
4 conservation and reclamation district is a
5 governmental agency and a body politic and corporate.

6 (2) Section 1, Chapter 299, Acts of the 56th
7 Legislature, Regular Session, 1959, refers to rights,
8 powers, privileges, and functions that are
9 "contemplated or implied" by Section 59, Article XVI,
10 Texas Constitution. The revised law omits
11 "contemplated" because the meaning of the term is
12 included in the meaning of "implied."

13 Revised Law

14 Sec. 9083.0102. WATER CONTROL AND IMPROVEMENT DISTRICT
15 POWERS. The district has the rights, powers, privileges, and
16 functions provided by general law applicable to a water control and
17 improvement district, including Chapters 49 and 51, Water Code.
18 (Acts 56th Leg., R.S., Ch. 299, Sec. 1 (part); New.)

19 Source Law

20 Sec. 1. . . . [Said District shall continue to
21 exist as a conservation and reclamation district
22 pursuant to Article XVI, Section 59 of the Texas
23 Constitution and shall be recognized to exercise all
24 of the powers and be a governmental agency and body
25 politic and corporate essential to the accomplishment
26 of the purposes of said constitutional provisions and
27 created to exercise such rights, powers, privileges
28 and functions as may be contemplated or implied by the
29 aforesaid constitutional provision,] also those now or
30 hereafter conferred by the General Laws of the state
31 relating to Water Control and Improvement Districts
32 wherein not in conflict with this Act.

33 Revisor's Note

34 (1) Section 1, Chapter 299, Acts of the 56th
35 Legislature, Regular Session, 1959, refers to "the
36 General Laws of the state relating to Water Control and
37 Improvement Districts" For the reader's
38 convenience, the revised law adds references to
39 Chapter 49, Water Code, applicable to the district
40 under Sections 49.001 and 49.002 of that chapter, and

1 to Chapter 51, Water Code, applicable to water control
2 and improvement districts.

3 (2) Section 1, Chapter 299, Acts of the 56th
4 Legislature, Regular Session, 1959, provides that the
5 district has the rights, powers, privileges, and
6 functions provided by general law to water control and
7 improvement districts "wherein not in conflict with
8 this Act." The revised law omits the quoted language
9 because that language duplicates, in substance,
10 Section 311.026(b), Government Code (Code
11 Construction Act), which provides that if there is a
12 conflict between a general provision of law and a
13 special or local provision, the special or local
14 provision prevails unless the general provision is the
15 later enactment and the manifest intent is that the
16 general provision prevail.

17 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

18 Revised Law

19 Sec. 9083.0151. TAX METHOD. (a) Taxes imposed by the
20 district shall be on the ad valorem basis.

21 (b) The district is not required to hold a hearing on the
22 plan of taxation. (Acts 56th Leg., R.S., Ch. 299, Sec. 5.)

23 Source Law

24 Sec. 5. All taxes levied by the District shall
25 be on the ad valorem basis and it shall not be
26 necessary for the District to have any hearings on the
27 plan of taxation.

28 Revisor's Note

29 Section 5, Chapter 299, Acts of the 56th
30 Legislature, Regular Session, 1959, refers to taxes
31 "levied" by the district. The revised law substitutes
32 "imposed" for "levied" because "impose" is the term
33 generally used in Title 1, Tax Code, and includes the
34 levy of an ad valorem tax.

1 proceedings of the Board of Directors of the
2 District or any of its officers or any
3 person acting for it, in calling,
4 conducting and determining the results of
5 any hearing on the matter of the exclusion
6 of lands or other property from the
7 District;

8 (c) All bonds heretofore voted by the
9 District for the purpose of purchasing or
10 constructing a Water System and any
11 election at which such bonds were voted
12 notwithstanding the fact that the Board of
13 Directors or any of its officers or person
14 acting for it, may have failed to comply
15 with any statutory requirement regulating
16 the calling of such election, the giving of
17 proper notice with relation thereto, the
18 canvassing of the returns thereof and the
19 declaration of its results.

20 (d) All orders, resolutions, or other
21 proceedings of the Board of Directors in
22 authorizing the issuance of the
23 aforementioned bonds and the levying of
24 taxes for the support thereof,

25 (e) All actions of the Board of
26 Directors of the District in authorizing
27 the levying, assessment and collection of
28 taxes for the said District and in adopting
29 its tax rolls.

30 (2) Section 3(d), Chapter 299, Acts of the 56th
31 Legislature, Regular Session, 1959, provides that
32 after approval (or validation), registration, sale,
33 and delivery, district bonds approved at an election
34 held before May 30, 1959 (the effective date of Chapter
35 299), to purchase or construct a water system are valid
36 and incontestable. The revised law omits the
37 provision as executed. The omitted law reads:

38 Sec. 3. [Without in anywise limiting
39 the generality of the foregoing the
40 following matters are hereby in all things
41 and in all respects ratified, confirmed,
42 approved and validated:

43 . . .
44 [(c) All bonds heretofore voted by
45 the District for the purpose of purchasing
46 or constructing a Water System and any
47 election at which such bonds were voted
48

49 [(d) All orders, resolutions, or
50 other proceedings of the Board of Directors
51 in authorizing the issuance of the
52 aforementioned bonds and the levying of
53 taxes for the support thereof,] it being
54 hereby provided that when the Attorney
55 General has approved such bonds, or if such
56 bonds are validated by a District Court
57 under the provisions of the General Laws
58 relating to Water Control and Improvement
59 Districts, and they have been registered by

1 the Comptroller of Public Accounts and sold
2 and delivered they shall be legal, valid and
3 enforceable obligations of the District and
4 shall be incontestable.
5

 . . .

6 (3) Section 6, Chapter 299, Acts of the 56th
7 Legislature, Regular Session, 1959, lists the entities
8 for which district bonds are legal investments and
9 provides that district bonds may secure deposits of
10 public funds of the state or political subdivisions.
11 The revised law omits the provision relating to the
12 eligibility of district bonds to be considered as
13 investments for various entities because it
14 duplicates, in substance, Section 49.186(a), Water
15 Code, applicable to the district under Sections 49.001
16 and 49.002 of that code. While Section 6 lists
17 "guardians" and Section 49.186(a), Water Code, does
18 not, Section 49.186(a) includes "fiduciaries," and a
19 guardian is a fiduciary. The revised law omits the
20 provision relating to the use of district bonds as
21 security for deposits of state funds as impliedly
22 repealed by Section 404.0221, Government Code (enacted
23 in 1995), which lists eligible collateral for deposits
24 of state funds by the comptroller, and by Section
25 404.031, Government Code (enacted in 1985 as Section
26 3.001, Article 4393-1, Vernon's Texas Civil Statutes),
27 which provides for the valuation of that collateral.
28 As to securing deposits of other funds, the provision
29 is impliedly repealed by Chapter 2257, Government Code
30 (enacted in 1989 as Article 2529d, Vernon's Texas Civil
31 Statutes), which governs eligible collateral for
32 deposits of funds of other public agencies, including
33 political subdivisions, and permits those deposits to
34 be secured by obligations issued by conservation and
35 reclamation districts. The omitted law reads:

36 Sec. 6. All bonds of the District
37 shall be and are hereby declared to be legal

1 and authorized investments for banks,
2 savings banks, trust companies, building
3 and loan associations, insurance companies,
4 fiduciaries, trustees, guardians, and for
5 the sinking funds of cities, towns,
6 villages, counties, school districts or
7 other political corporations or
8 subdivisions of the State of Texas. Such
9 bonds shall be eligible to secure the
10 deposit of any and all public funds of the
11 State of Texas and any and all public funds
12 of cities, towns, villages, counties,
13 school districts or other political
14 corporations or subdivisions of the State
15 of Texas; and such bonds shall be lawful and
16 sufficient security for said deposits to
17 the extent of their par value.

1 APPENDIX A

2 CONFORMING AMENDMENTS

3 SECTION 2.01. SABINE PASS PORT AUTHORITY. Section 1,
4 Chapter 379, Acts of the 63rd Legislature, Regular Session, 1973,
5 is amended to read as follows:

6 Sec. 1. [~~There is hereby created, in addition to the~~
7 ~~districts into which the state has heretofore been divided, a port~~
8 ~~district to be known as the Sabine Pass Port Authority, with~~
9 ~~boundaries as hereinafter set out. Such district shall be and is~~
10 ~~hereby declared to be a governmental agency and body politic and~~
11 ~~corporate with the powers of government and with the authority to~~
12 ~~exercise the rights, privileges, and functions hereinafter~~
13 ~~specified, and the creation of such district is hereby determined~~
14 ~~to be essential to the accomplishment of the purposes of Article~~
15 ~~XVI, Section 59, of the Texas Constitution.~~]

16 The boundaries of the Sabine Pass Port Authority [~~district~~]
17 shall be the boundaries of the Sabine Pass Independent School
18 District in Jefferson County, Texas, as the same exist on the date
19 of passage of this Act, excluding that portion which is located
20 within the Port of Port Arthur Navigation District of Jefferson
21 County, Texas, and in addition thereto the district's boundaries
22 shall include the contiguous territory described by metes and
23 bounds as follows:

24 A 54.9 acre tract of land out of a part of the T. & N. O. Survey 122,
25 Abst. 486--the T. & N. O. Survey 123, Abst. 251 and the South John
26 Bennett Abst. 71, said tract described by metes and bounds as
27 follows to:wit:

28 Commencing at a concrete monument the Northeast corner of the T. &
29 N. O. Survey 123, Abst. 251 and being in the West line of the South
30 John Bennett Survey;

31 THENCE, South 00 deg. 01 min. 30 sec. East, along said West line of
32 the South John Bennett Survey, a distance of 465.15 feet to a point
33 for turn in the East right-of-way line of State Highway 87;

34 THENCE, North 18 deg. 45 min. 00 sec. West, along said East

1 right-of-way line, a distance of 35.28 feet to point for corner and
2 point of beginning of the tract herein below described;
3 THENCE, South 18 deg. 45 min. 00 sec. East, along said East
4 right-of-way line, a distance of 3566.03 feet to point for corner;
5 THENCE, South 18 deg. 36 min. 41 sec. East, along said East
6 right-of-way line, a distance of 5887.34 feet to point for corner in
7 the East extension of the South line of the South John Bennett
8 Survey;
9 THENCE, East, along said extension a distance of 52.0 feet to point
10 for corner in the West descending bank of the Port Arthur Ship
11 Channel;
12 THENCE, along the meanders of said channel the following courses
13 and distances:
14 North 12 deg. 29 min. 13 sec. West - 25.22 feet
15 North 58 deg. 00 min. 21 sec. West - 53.14 feet
16 North 13 deg. 25 min. 29 sec. West - 67.46 feet
17 North 70 deg. 50 min. 37 sec. West - 29.03 feet
18 North 20 deg. 54 min. 40 sec. West - 135.07 feet
19 North 11 deg. 53 min. 52 sec. West - 50.07 feet
20 South 82 deg. 13 min. 51 sec. East - 26.83 feet
21 North 10 deg. 46 min. 30 sec. West - 83.98 feet
22 North 20 deg. 17 min. 36 sec. West - 32.81 feet
23 North 17 deg. 31 min. 26 sec. East - 36.91 feet
24 North 19 deg. 17 min. 39 sec. West - 96.68 feet
25 North 24 deg. 35 min. 12 sec. West - 97.29 feet
26 North 16 deg. 43 min. 29 sec. West - 187.62 feet
27 North 38 deg. 40 min. 03 sec. West - 34.18 feet
28 North 00 deg. 49 min. 01 sec. West - 63.85 feet
29 North 08 deg. 56 min. 23 sec. West - 105.15 feet
30 North 18 deg. 31 min. 31 sec. West - 247.14 feet
31 North 49 deg. 47 min. 19 sec. West - 50.88 feet
32 North 14 deg. 48 min. 55 sec. West - 170.74 feet
33 North 24 deg. 51 min. 34 sec. East - 27.70 feet
34 North 23 deg. 03 min. 20 sec. West - 170.02 feet

1 North 35 deg. 47 min. 26 sec. West - 240.07 feet
2 North 15 deg. 49 min. 10 sec. West - 439.73 feet
3 North 13 deg. 06 min. 54 sec. West - 61.50 feet
4 North 03 deg. 06 min. 24 sec. West - 71.50 feet
5 North 11 deg. 14 min. 39 sec. West - 99.95 feet
6 North 39 deg. 20 min. 33 sec. East - 25.42 feet
7 North 14 deg. 25 min. 54 sec. West - 64.56 feet
8 North 12 deg. 46 min. 36 sec. East - 92.92 feet
9 North 19 deg. 15 min. 15 sec. West - 154.25 feet
10 North 22 deg. 08 min. 11 sec. West - 143.13 feet
11 North 24 deg. 08 min. 29 sec. West - 81.13 feet
12 North 22 deg. 20 min. 12 sec. West - 113.11 feet
13 North 02 deg. 25 min. 40 sec. East - 44.48 feet
14 North 23 deg. 53 min. 14 sec. West - 260.36 feet
15 North 22 deg. 31 min. 29 sec. West - 53.69 feet
16 North 14 deg. 26 min. 06 sec. East - 93.32 feet
17 North 38 deg. 26 min. 36 sec. West - 67.01 feet
18 North 14 deg. 47 min. 13 sec. West - 290.60 feet
19 North 60 deg. 26 min. 29 sec. West - 102.43 feet
20 North 21 deg. 17 min. 48 sec. East - 57.69 feet
21 South 70 deg. 26 min. 39 sec. East - 50.50 feet
22 North 27 deg. 56 min. 05 sec. East - 76.38 feet
23 North 08 deg. 40 min. 00 sec. West - 165.74 feet
24 North 15 deg. 59 min. 03 sec. West - 557.03 feet
25 North 09 deg. 09 min. 41 sec. West - 140.32 feet
26 North 21 deg. 31 min. 38 sec. West - 265.07 feet
27 North 43 deg. 13 min. 40 sec. West - 74.36 feet
28 South 80 deg. 03 min. 11 sec. East - 35.00 feet
29 North 27 deg. 11 min. 50 sec. West - 31.31 feet
30 North 29 deg. 12 min. 57 sec. West - 168.90 feet
31 North 06 deg. 56 min. 37 sec. East - 43.73 feet
32 North 30 deg. 39 min. 39 sec. West - 27.47 feet
33 North 40 deg. 01 min. 39 sec. West - 53.48 feet
34 North 50 deg. 59 min. 55 sec. West - 24.28 feet

1 North 54 deg. 50 min. 38 sec. East - 28.25 feet
2 North 33 deg. 25 min. 59 sec. West - 57.24 feet
3 North 64 deg. 12 min. 29 sec. West - 17.78 feet
4 North 10 deg. 44 min. 19 sec. East - 19.22 feet
5 North 28 deg. 27 min. 56 sec. West - 129.86 feet
6 North 39 deg. 11 min. 03 sec. East - 37.37 feet
7 North 02 deg. 04 min. 19 sec. East - 50.32 feet
8 North 10 deg. 09 min. 16 sec. West - 43.14 feet
9 North 22 deg. 20 min. 17 sec. West - 113.64 feet
10 North 53 deg. 13 min. 21 sec. East - 6.41 feet
11 North 26 deg. 37 min. 03 sec. West - 92.92 feet
12 North 13 deg. 14 min. 17 sec. West - 80.58 feet
13 North 19 deg. 41 min. 27 sec. West - 127.44 feet
14 North 27 deg. 21 min. 20 sec. West - 54.28 feet
15 South 47 deg. 29 min. 00 sec. West - 45.38 feet
16 South 09 deg. 30 min. 48 sec. East - 65.88 feet
17 South 20 deg. 15 min. 16 sec. West - 38.15 feet
18 North 87 deg. 42 min. 30 sec. West - 78.97 feet
19 North 25 deg. 58 min. 13 sec. West - 140.09 feet
20 North 19 deg. 47 min. 05 sec. West - 55.38 feet
21 North 70 deg. 01 min. 10 sec. West - 30.31 feet
22 North 49 deg. 49 min. 07 sec. East - 16.98 feet
23 North 18 deg. 47 min. 58 sec. East - 16.29 feet
24 North 12 deg. 41 min. 54 sec. West - 57.60 feet
25 North 40 deg. 14 min. 57 sec. East - 26.69 feet
26 North 75 deg. 52 min. 27 sec. West - 139.07 feet
27 North 36 deg. 55 min. 56 sec. West - 41.26 feet
28 South 82 deg. 08 min. 20 sec. East - 131.62 feet
29 North 24 deg. 39 min. 59 sec. West - 14.94 feet
30 North 55 deg. 13 min. 44 sec. East - 74.28 feet
31 South 48 deg. 57 min. 32 sec. East - 54.17 feet
32 North 58 deg. 32 min. 41 sec. East - 49.23 feet
33 North 24 deg. 34 min. 59 sec. East - 99.44 feet
34 North 46 deg. 00 min. 10 sec. West - 118.53 feet

1 North 06 deg. 03 min. 23 sec. West - 42.94 feet
2 North 42 deg. 29 min. 08 sec. West - 37.02 feet
3 North 47 deg. 31 min. 18 sec. East - 38.35 feet
4 North 69 deg. 57 min. 31 sec. West - 84.03 feet
5 North 39 deg. 20 min. 52 sec. West - 68.33 feet
6 North 23 deg. 24 min. 48 sec. West - 99.65 feet
7 North 14 deg. 27 min. 54 sec. West - 95.18 feet
8 North 02 deg. 30 min. 54 sec. East - 43.76 feet
9 North 34 deg. 28 min. 08 sec. West - 74.06 feet
10 North 14 deg. 22 min. 24 sec. West - 113.03 feet
11 North 49 deg. 49 min. 15 sec. East - 112.31 feet
12 North 20 deg. 04 min. 24 sec. West - 48.47 feet
13 North 83 deg. 20 min. 51 sec. West - 86.10 feet
14 North 26 deg. 04 min. 10 sec. West - 96.87 feet
15 North 09 deg. 11 min. 19 sec. West - 142.12 feet
16 North 67 deg. 36 min. 42 sec. East - 56.32 feet
17 North 30 deg. 49 min. 30 sec. East - 22.41 feet
18 North 22 deg. 47 min. 30 sec. West - 56.02 feet
19 North 13 deg. 56 min. 26 sec. West - 149.00 feet
20 North 18 deg. 02 min. 09 sec. West - 97.79 feet
21 North 53 deg. 50 min. 52 sec. West - 37.14 feet
22 North 22 deg. 15 min. 45 sec. East - 36.87 feet
23 North 23 deg. 42 min. 04 sec. West - 112.20 feet
24 North 09 deg. 30 min. 08 sec. West - 81.96 feet
25 North 18 deg. 58 min. 50 sec. West - 121.30 feet
26 North 38 deg. 00 min. 15 sec. West - 92.06 feet
27 North 24 deg. 38 min. 28 sec. West - 98.60 feet
28 North 00 deg. 34 min. 55 sec. West - 81.10 feet
29 North 19 deg. 00 min. 48 sec. West - 45.20 feet
30 North 56 deg. 21 min. 41 sec. East - 40.23 feet
31 North 48 deg. 14 min. 01 sec. West - 121.82 feet
32 North 31 deg. 30 min. 37 sec. West - 101.56 feet
33 North 07 deg. 43 min. 43 sec. West - 56.02 feet
34 North 14 deg. 46 min. 25 sec. East - 110.59 feet

1 North 32 deg. 20 min. 10 sec. West - 164.56 feet
2 North 02 deg. 36 min. 08 sec. West - 125.06 feet
3 North 27 deg. 24 min. 24 sec. West - 190.99 feet
4 North 01 deg. 12 min. 39 sec. West - 208.43 feet
5 North 57 deg. 21 min. 52 sec. West - 48.85 feet
6 North 01 deg. 30 min. 24 sec. West - 95.75 feet
7 North 40 deg. 07 min. 50 sec. West - 120.96 feet
8 North 17 deg. 51 min. 18 sec. East - 112.64 feet
9 North 63 deg. 12 min. 10 sec. West - 79.11 feet
10 North 17 deg. 05 min. 44 sec. West - 103.72 feet
11 North 28 deg. 18 min. 35 sec. East - 87.72 feet
12 North 16 deg. 40 min. 55 sec. West - 114.30 feet
13 North 24 deg. 51 min. 25 sec. West - 187.74 feet
14 North 14 deg. 12 min. 51 sec. East - 135.72 feet
15 North 62 deg. 31 min. 22 sec. West - 52.58 feet
16 North 18 deg. 51 min. 09 sec. West - 182.43 feet
17 North 07 deg. 40 min. 03 sec. East - 102.05 feet
18 North 27 deg. 21 min. 32 sec. West - 145.37 feet
19 North 30 deg. 57 min. 39 sec. West - 440.35 feet
20 South 04 deg. 36 min. 36 sec. East - 252.07 feet
21 North 89 deg. 20 min. 59 sec. West - 109.06 feet
22 South 42 deg. 59 min. 36 sec. West - 31.24 feet
23 North 60 deg. 39 min. 10 sec. West - 21.15 feet
24 North 85 deg. 25 min. 11 sec. West - 60.71 feet
25 North 74 deg. 59 min. 11 sec. West - 31.90 feet
26 South 11 deg. 23 min. 33 sec. East - 62.31 feet
27 South 50 deg. 34 min. 39 sec. West - 55.70 feet
28 South 18 deg. 45 min. 00 sec. East - 1430.87 feet
29 South 27 deg. 20 min. 30 sec. East - 572.29 feet
30 South 25 deg. 39 min. 30 sec. West - 122.18 feet to the point

31 of beginning. The tract of land herein above described contains
32 54.9 acres of land, more or less.

33 ~~[It is hereby found that all territory within the boundaries of the~~
34 ~~Sabine Pass Port Authority as enlarged is and will be benefited by~~

1 ~~the present and contemplated improvements, works, and facilities of~~
2 ~~said authority. Further, the governing body of said authority is~~
3 ~~authorized to call an election or elections over the entire~~
4 ~~authority as enlarged for the purpose of determining (1) whether~~
5 ~~the entire authority as enlarged shall assume the tax-supported~~
6 ~~bonds of the authority then outstanding and whether an ad valorem~~
7 ~~tax shall be levied on all taxable property within the authority as~~
8 ~~enlarged for the payment thereof, and (2) whether an ad valorem~~
9 ~~maintenance tax (for the maintenance, operation, and upkeep of the~~
10 ~~authority and its facilities), in such amount as is specified by the~~
11 ~~governing body of the authority, shall be levied on all taxable~~
12 ~~property within the authority as enlarged. Said election or~~
13 ~~elections shall be called and held, and notice thereof given, in the~~
14 ~~same manner (to the extent pertinent) as elections for the issuance~~
15 ~~of tax-supported bonds as provided in this Act, and if either or~~
16 ~~both of such propositions should carry, the governing body of the~~
17 ~~authority shall be authorized to levy and collect such bond tax~~
18 ~~and/or maintenance tax as voted.]~~

19 SECTION 2.02. HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO.
20 319. Section 3, Chapter 787, Acts of the 69th Legislature, Regular
21 Session, 1985, is amended to read as follows:

22 Sec. 3. BOUNDARIES. The Harris County Municipal Utility
23 District No. 319 [~~district~~] shall include all of the territory
24 contained within the following described area: Being a tract or
25 parcel containing 237.9940 acres of land in the William McCann
26 Survey, Abstract 585, Harris County, Texas, said 237.9940 acre
27 tract being more particularly described as follows:

28 COMMENCING for reference at the intersection of the east
29 right-of-way (R.O.W.) line of Becker Road, 60.00 feet wide, and the
30 southerly line of said William McCann Survey, Abstract 585;

31 THENCE, along the east R.O.W. line of said Becker Road the following
32 courses and distances:

33 North 00°51'06" West, 700.00 feet to the POINT OF BEGINNING
34 and the southwest corner of the herein described tract; North

1 00°51'06" West, 2641.14 feet to a point at the beginning of a curve;
2 143.75 feet along the arc of a curve to the right, having a central
3 angle of 28°45'00", a radius of 286.48 feet and a chord which bears
4 North 13°31'24" East, 142.25 feet to a point at the end of said
5 curve; North 27°53'54" East, 203.27 feet to a point for the
6 northwest corner of the herein described tract in the north line of
7 the aforementioned William McCann Survey;
8 THENCE, along the north line of said William McCann Survey and the
9 south line of the Harris County School Land Survey, Abstract 333,
10 North 89°25'55" East, 3926.28 feet to a point for the northeast
11 corner of the herein described tract;
12 THENCE, departing said survey line, South 01°00'00" East, 1492.66
13 feet to a point for corner;
14 THENCE, South 89°00'00" West, 665.66 feet to a point at the
15 beginning of a curve;
16 THENCE, 1916.28 feet along the arc of a curve to the left, having a
17 central angle of 87°50'10", a radius of 1250.00 feet and a chord
18 which bears South 45°04'55" West, 1734.07 feet to a point at the end
19 of said curve;
20 THENCE, South 01°09'50" West, 502.49 feet to a point at the
21 beginning of a curve;
22 THENCE, 484.78 feet along the arc of a curve to the right, having a
23 central angle of 22°13'15", a radius of 1250.00 feet and a chord
24 which bears South 12°16'28" West, 481.75 feet to a point at the end
25 of said curve;
26 THENCE, South 23°23'05" West, 150.00 feet to a point for the
27 southeast corner of the herein described tract;
28 THENCE, North 66°36'55" West, 428.18 feet to a point at the
29 beginning of a curve;
30 THENCE, 447.69 feet along the arc of a curve to the right, having a
31 central angle of 12°49'31", a radius of 2000.00 feet and a chord
32 which bears North 60°12'09" West, 446.75 feet to a point at the end
33 of said curve;
34 THENCE, North 53°47'24" West, 109.55 feet to a point at the

1 beginning of a curve;
2 THENCE, 1188.98 feet along the arc of a curve to the left, having a
3 central angle of 34°03'42", a radius of 2000.00 feet and a chord
4 which bears North 70°49'15" West, 1171.55 feet to the POINT OF
5 BEGINNING and containing 237.9940 acres of land.

6 SECTION 2.03. POLK COUNTY FRESH WATER SUPPLY DISTRICT NO.
7 2. Section 3, Chapter 814, Acts of the 75th Legislature, Regular
8 Session, 1997, is amended to read as follows:

9 Sec. 3. BOUNDARIES. The boundaries of Polk County Fresh
10 Water Supply District No. 2 are hereby confirmed as follows:

11 BEGINNING at a point in the A.M. De La Jarza Survey A-43 on the
12 shoreline of Lake Livingston, said point having a State Plane
13 co-ordinate of Y=459,067.61, X=3,631,144.58;

14 THENCE, N 57° 51' 38" E, a distance to a point intersecting the west
15 boundary line of the 695.13 acre tract described in the deed to
16 James A. McAlister, Trustee for 711 LTD recorded in Volume 279,
17 Page 892, of the Polk County Deed Records;

18 THENCE, along the boundary line of the said McAlister 695.13 acre
19 tract, (more particularly described in the Deed of Trust Records,
20 Volume 104, Page 226-234 of Polk County Records) being the boundary
21 line of the Polk County Fresh Water Supply District No. 2 as amended
22 according to the Minutes of the Annexation Meeting of December 15,
23 1981, of Polk County Fresh Water Supply District No. 2, in a
24 clockwise direction for several courses to it's intersection with
25 the Trinity River Authority Lake Livingston "Fee Take" line, being
26 the Northeast corner of the original Polk County Fresh Water Supply
27 District No. 2 boundary as set forth in that certain Polk County
28 Commissioners Court Minutes dated January 26, 1976, and recorded in
29 Volume 22, Page 11-15 of the Records of Polk County, Texas; said
30 point having a State Plane co-ordinate of Y=469,284.55,
31 X=3,647,407.03;

32 THENCE, in a southerly direction with the meanders of the "Fee Take"
33 line of Lake Livingston around a peninsula commonly called the
34 Onalaska Peninsula to the point of beginning, the above to exclude

1 the Area dedicated and named Stowaway Bay as described in the Plat
2 Records of Polk County, Texas, and also excludes the Area dedicated
3 and named Canyon Park as described in the Plat Records of Polk
4 County, Texas, with the exception of those certain partials of land
5 located in the Canyon Park Subdivision and located along and
6 adjacent to FM 356, North Highway and described as:

7 Section 4, Lot 11, as described in the Plat Records Book 7,
8 Page 27 of Polk County, Texas; and

9 Section 2, Lot 13; and Section 2, Lots 14, 15, and 16 as
10 described in the Plat Records Book 7, Page 2 of Polk County, Texas,
11 which shall be included within the boundaries of the Polk County
12 Fresh Water Supply District No. 2

13 all of the foregoing land being encompassed within the
14 boundaries of Polk County Fresh Water Supply District No. 2.

15 ~~[This confirmation of boundaries does not enlarge or diminish the~~
16 ~~district as it exists and includes the property in the district that~~
17 ~~is being served or taxed on September 1, 1997.]~~

18 SECTION 2.04. FORT BEND COUNTY WATER CONTROL AND
19 IMPROVEMENT DISTRICT NO. 2. Section 1, Chapter 312, Acts of the
20 57th Legislature, Regular Session, 1961, is amended to read as
21 follows:

22 Sec. 1. The boundaries of the Fort Bend County Water Control
23 and Improvement District No. 2 are ~~[That Fort Bend County Water~~
24 ~~Control and Improvement District No. 2, lying in Fort Bend and~~
25 ~~Harris Counties, Texas, hereinafter sometimes referred to as~~
26 ~~"District," shall be enlarged, and the boundaries of such District,~~
27 ~~as enlarged, shall hereafter be defined]~~ as follows:

28 BEGINNING at the point of intersection of the Northwest line
29 of Section 8, B.B.B. & C. Railroad Co. Survey and the Fort
30 Bend-Harris County line;

31 THENCE Northwesterly (from said point of intersection of said
32 Northwest line of Section 8, B.B.B. & C. Railroad Co. Survey and the
33 Fort Bend-Harris County line), along the Fort Bend-Harris County
34 line to the point of intersection of said Fort Bend-Harris County

1 line with the center line of a public road running through Section
2 7, B.B.B. & C. Railroad Co. Survey, along the division line between
3 the Southwest one-half and the Northeast one-half of said Section
4 7, B.B.B. & C. Railroad Co. Survey, for a corner;

5 THENCE Northwest along the centerline of said public road to
6 its intersection with the centerline of the Stafford-Bellaire Road,
7 which point is in the Northwest line of Section 7, B.B.B. & C.
8 Railroad Co. Survey, for a corner;

9 THENCE in a Northwesterly direction to the Northeast corner
10 of Missouri City Estates Subdivision, which point is in the South
11 line of Section 4, H.T. & B. Railroad Co. Survey, for a corner;

12 THENCE West, 1,107.3 feet along the North line of Missouri
13 City Estates Subdivision and the South line of Section 4, H.T. & B.
14 Railroad Co. Survey to the Northwest corner of Missouri City
15 Estates Subdivision, for a corner;

16 THENCE South along the West line of Missouri City Estates
17 Subdivision and its extension Southerly to a point in the
18 centerline of Mula Road, for a corner;

19 THENCE in a Westerly direction along the centerline of Mula
20 Road to its intersection with the centerline of Murphy Road;

21 THENCE generally in a Southerly direction in a straight line
22 to the Northeast corner of the William Stafford League;

23 THENCE West along the North line of the William Stafford
24 League to a point in the centerline of Lester Road, for a corner;

25 THENCE Southerly with the centerline of Lester Road to the
26 Northeast corner of an 80 acre tract described in deed from
27 Sugarland Industries, Inc. to Fort Bend Independent School District
28 and recorded in Volume 399, Pages 433 thru 438 of the Deed Records
29 of Fort Bend County, Texas which corner is South 0 degrees 19
30 minutes West 1,421.4 feet, measured along said centerline of Lester
31 Road, from the centerline of the G.H. & S.A. Railway, for a corner;

32 THENCE North 89 degrees 41 minutes West, along the North line
33 of said 80 acre tract, 1,291.36 feet to its Northwest corner, for a
34 corner;

1 THENCE South 0 degrees 19 minutes West, along the West line of
2 said 80 acre tract, 2,698.55 feet to its Southwest corner, for a
3 corner;

4 THENCE South 89 degrees 41 minutes East, along the South line
5 of said 80 acre tract, 1,291.36 feet to its Southeast corner, in the
6 centerline of Lester Road, for a corner;

7 THENCE Southerly with the centerline of Lester Road, at
8 3,007.7 feet pass the Northeast corner of the Riverbend Country
9 Club's 165.0 acre tract and continuing with the centerline of
10 Lester Road to a point in the North right-of-way line of the
11 American Canal Co. property, for a corner;

12 THENCE East Southeasterly along the North line of the
13 American Canal Co. property to its intersection with the Southeast
14 right-of-way line of Avenue E;

15 (15) THENCE in a Northeasterly direction along the
16 Southeast right-of-way line of Avenue E to its intersection with
17 the centerline of Murphy Road, which point of intersection is in the
18 East line of the William Stafford League, for a corner;

19 THENCE in an East Southeasterly direction in a straight line
20 to a point at the intersection of the centerline of a road running
21 in a Southerly direction from the Stafford-Blue Ridge Road to the
22 Stafford Run Creek and a line 500 feet Southwest of and parallel
23 with the Southwest boundary line of the F. P. Hoffman Survey, for a
24 corner;

25 THENCE South 45 degrees East 500 feet from and parallel to
26 said Southwest boundary line of said F. P. Hoffman Survey to a point
27 in the M. Johnson 4.8 acre tract, which point is South 45 degrees
28 West 500 feet from the Southwest boundary line of said F. P. Hoffman
29 Survey and in the extended Southeast boundary line of the L. Ross
30 18.4 acre tract, for a corner;

31 THENCE South 45 degrees West to an intersection with the
32 Northeast right-of-way line of the American Canal Co. property;

33 THENCE in a generally Southeasterly and Southerly direction
34 with the Northeast and East right-of-way line of said American

1 Canal Co. property to its intersection with the South line of the
2 Wm. Neel Survey, for a corner;

3 THENCE East along the South line of the William Neel Survey to
4 its most Easterly corner, same being in a Southwest line of the I. &
5 G.N. Railroad Co. Survey, Abstract 264, for a corner;

6 THENCE Northwest along the common line of the William Neel
7 Survey and the I. & G.N. Railroad Co. Survey, Abstract 264, to the
8 South corner of the I. & G.N. Railroad Co. Survey, Abstract 360, for
9 a corner;

10 THENCE Northeast along the Southeast line of the I. & G.N.
11 Railroad Co. Survey, Abstract 360, to its East corner, for a corner;

12 THENCE Northwest along the Northeast line of the
13 I. & G.N. Railroad Co. Survey, Abstract 360, to the South corner,
14 Section 9, B.B.B. & C. Railroad Co. Survey, for a corner;

15 THENCE Northeast along the Southeast line of Sections 9 & 8,
16 B.B.B. & C. Railroad Co. Surveys to the point of the intersection of
17 the Southeast line of said Section 8, B.B.B. & C. Railroad Co.
18 Survey with the Fort Bend-Harris County line, for a corner;

19 THENCE Northwesterly along the Fort Bend-Harris County line
20 to the point of intersection with the Northwest line of Section 8,
21 B.B.B. & C. Railroad Co. Survey, the point and place of BEGINNING.

22 SECTION 2.05. HALL AND DONLEY COUNTIES WATER CONTROL AND
23 IMPROVEMENT DISTRICT NO. 1 OF HALL AND DONLEY COUNTIES. Section 2,
24 Chapter 189, Acts of the 59th Legislature, Regular Session, 1965,
25 is amended to read as follows:

26 Sec. 2. The boundaries of the Hall and Donley Counties Water
27 Control and Improvement District No. 1 of Hall and Donley Counties
28 are [~~said District heretofore and herein established~~] as follows:

29 BEGINNING at the common Southwest corner of Section 19 and
30 the Southeast corner of Section 20, both Sections being in Block 2,
31 of T. & P. R. R. Co. Survey in Hall County, Texas, the point of
32 beginning also being on the North bank of the Prairie Dog Town Fork
33 of Red River;

34 THENCE, North with the West line of said Section 19 and the

1 East line of said Section 20, Block 2, T. & P. R. R. Co. Survey, to
2 the South Bank of Mulberry Creek;

3 THENCE, in a Northwesterly direction with the South bank of
4 Mulberry Creek to its intersection with the common East line of
5 Briscoe County and the West line of Hall County;

6 THENCE, North with the said common County Lines to the North
7 line of Section 121, Block 2, T. & P. R. R. Co. Survey in Hall
8 County, Texas;

9 THENCE, East with the North line of said Section 121, Block 2,
10 T. & P. R. R. Co. Survey, to the common Northeast corner of said
11 Section 121 and the Southeast corner of Section 13, Block 2, J.
12 Poitevent Survey in Hall County, Texas;

13 THENCE, North with the East line of said Section 13, Block 2,
14 J. Poitevent Survey and crossing Section 1, Block 1, C. L. Benson
15 Survey and also crossing Section 5, Block X, W. H. Martin Survey to
16 a point of intersection with the South line of Section 6, Block B,
17 John G. Adair Survey. All of the above Surveys being in Hall County,
18 Texas;

19 THENCE, West with the South line of said Section 6, Block B,
20 John G. Adair Survey to the Southwest corner of said Section 6;

21 THENCE, North with the West line of Section 6, Block B, John
22 G. Adair Survey in Hall County, Texas, and the West line of Section
23 11, Block B, John G. Adair Survey in Hall and Donley Counties,
24 Texas, to the Northwest corner of said Section 11;

25 THENCE, West to the Southeast corner of Section 36, Block
26 G-7, Adair & Goodnight Survey in Donley County, Texas;

27 THENCE, North with the East line of said Section 36, Block
28 G-7, Adair & Goodnight Survey to the common Northwest corner of
29 Section 32, Block G-7, Adair & Goodnight Survey and the Southwest
30 corner of Section 33, Block G-7, Adair & Goodnight Survey in Donley
31 County, Texas;

32 THENCE, East with the South line of said Section 33, Block
33 G-7, Adair & Goodnight Survey to the Southeast corner of said
34 Section 33;

1 THENCE, North along the East line of said Section 33, Block
2 G-7, Adair & Goodnight Survey and the West line of Section 29, Block
3 G-7, Adair & Goodnight Survey in Donley County, Texas, to the
4 Northwest corner of said Section 29;

5 THENCE, East with the North line of said Section 29, Block
6 G-7, Adair & Goodnight Survey and across Section 68, W. M. Cross
7 Survey in Donley County, Texas, to the intersection with the
8 present East right of way line of State Highway 70 in Section 170,
9 Block E, D. & P. R. R. Co. Survey in Donley County, Texas;

10 THENCE, in a North and Northeasterly direction with the
11 present East right of way line of State Highway 70 thru Sections 170
12 and 169, Block E, D. & P. R. R. Co. Survey, Section 26, Block G-7,
13 Adair & Goodnight Survey to a point located 752.5 varas and 20 feet
14 South of the North line of Section 167, Block E, D. & P. R. R. Co.
15 Survey in Donley County, Texas. The said point also being located
16 1,430.9 varas West of the East line of said Section 167;

17 THENCE, East 741 varas to a point;

18 THENCE, South 1,147.8 varas to a point in the South line of
19 said Section 167, Block E, D. & P. R. R. Co. Survey and also 689.7
20 varas West of the Southeast corner of said Section 167;

21 THENCE, East with the North lines of Sections 166, 157 and
22 152, Block E, D. & P. R. R. Co. Survey in Donley County, Texas, to
23 the Northeast corner of said Section 152 and the West line of
24 Section 153, Block E, D. & P. R. R. Co. Survey in Donley County,
25 Texas;

26 THENCE, South with the West line of said Section 153, Block E,
27 D. & P. R. R. Co. Survey to its Southwest corner and the Northwest
28 corner of Section 154, Block E, D. & P. R. R. Co. Survey in Donley
29 County, Texas;

30 THENCE, East with the North line of said Section 154, Block E,
31 D. & P. R. R. Co. Survey to its Northeast corner;

32 THENCE, South with the East line of said Section 154, Block E,
33 D. & P. R. R. Co. Survey to its Southeast corner and the North line
34 of Section 144, Block E, D. & P. R. R. Co. Survey in Donley County,

1 Texas;

2 THENCE, East with the North line of said Section 144, Block E,
3 D. & P. R. R. Co. Survey to its Northeast corner and the Southwest
4 corner of Section 98, Block C-6, G. C. & S. F. R. R. Co. Survey in
5 Donley County, Texas;

6 THENCE, East with the South line of said Section 98, Block
7 C-6, G. C. & S. F. R. R. Co. Survey a distance of 950 varas;

8 THENCE, North 950 varas to a point;

9 THENCE, East 950 varas to a point in the East line of Section
10 98 and the West line of Section 97, Block C-6, G. C. & S. F. R. R. Co.
11 Survey in Donley County, Texas;

12 THENCE, North with the said West line of Section 97, Block
13 C-6, G. C. & S. F. R. R. Co. Survey 354.75 varas;

14 THENCE, East 950 varas to a point;

15 THENCE, South 354.75 varas to a point;

16 THENCE, East 950 varas to a point in the West line of Section
17 96, Block C-6, G. C. & S. F. R. R. Co. Survey in Donley County,
18 Texas;

19 THENCE, South with the said West line of Section 96, Block
20 C-6, G. C. & S. F. R. R. Co. Survey to its Southwest corner and the
21 Northwest corner of Section 101, Block C-6, G. C. & S. F. R. R. Co.
22 Survey in Donley County, Texas;

23 THENCE, East with the North line of said Section 101, Block
24 C-6, G. C. & S. F. R. R. Co. Survey to its Northeast corner;

25 THENCE, South with the East line of said Section 101, Block
26 C-6, G. C. & S. F. R. R. Co. Survey 1,600 varas;

27 THENCE, East to a point in the East line of Section 134, Block
28 E, D. & P. R. R. Co. Survey in Donley County, Texas;

29 THENCE, South with the West lines of Sections 134 and 135,
30 Block E, D & P. R. R. Co. Survey in Donley County, Texas, to the
31 Southeast corner of said Section 135;

32 THENCE, East across Theo W. Wheeler Survey in Donley County,
33 Texas, to the Northeast corner of Section 50, Block 20, H. & G. N. R.
34 R. Co. Survey in Donley County, Texas;

1 THENCE, South with the East line of said Section 50, Block 20,
2 H. & G. N. R. R. Co. Survey to its Southeast corner and the Northwest
3 corner of Section 32, Block 20, H. & G. N. R. R. Co. Survey in Donley
4 County, Texas;

5 THENCE, East with the North line of said Section 32, Block 20,
6 H. & G. N. R. R. Co. Survey to the Northeast corner of said Section
7 32;

8 THENCE, South with the East line of said Section 32, Block 20,
9 H. & G. N. R. R. Co. Survey to its Southeast corner and also the
10 Northwest corner of Section 28, Block 20, H. & G. N. R. R. Co. Survey
11 in Donley and Hall Counties, Texas;

12 THENCE, East to the Northeast corner of said Section 28,
13 Block 20, H. & G. N. R. R. Co. Survey;

14 THENCE, South with the East line of said Section 28 and
15 Section 13, Block 20, H. & G. N. R. R. Co. Survey in Hall County,
16 Texas, to the Southeast corner of said Section 13;

17 THENCE, West to the Northeast corner of Section 9, Block 20,
18 H. & G. N. R. R. Co. Survey in Hall County, Texas;

19 THENCE, South with the East lines of said Section 9, Block 20,
20 and Sections 99, 62, and 59, Block 18, H. & G. N. R. R. Co. Survey in
21 Hall County, Texas, to the Southeast corner of said Section 59 and
22 the Northwest corner of Section 23, Block 18, W. & N. W. R. R. Co.
23 Survey in Hall County, Texas;

24 THENCE, East with the North line of said Section 23, Block 18,
25 H. & G. N. R. R. Co. Survey 950 varas;

26 THENCE, South 950 varas to a point;

27 THENCE, East 950 varas to a point in the East line of said
28 Section 23, Block 18, H. & G. N. R. R. Co. Survey;

29 THENCE, South with the East lines of Sections 23 and 18, Block
30 18, H. & G. N. R. R. Co. Survey in Hall County, Texas, to the
31 Southeast corner of said Section 18;

32 THENCE, West to the Northwest corner of Section 116, Block 1,
33 S. P. Ry. Co. Survey in Hall County, Texas;

34 THENCE, South with the West line of said Section 116, Block 1,

1 S. P. Ry. Co. Survey to its Southwest corner and the Northwest
2 corner of Section 109, Block 1, S. P. Ry. Co. Survey in Hall County,
3 Texas;

4 THENCE, East with the North line of said Section 109, Block 1,
5 S. P. Ry. Co. Survey to its Northeast corner;

6 THENCE, East 950 varas to a point in the North line of Section
7 108, Block 1, S. P. Ry. Co. Survey in Hall County, Texas;

8 THENCE, South to a point in the South line of said Section
9 108, Block 1, S. P. Ry. Co. Survey and the North line of Section 9,
10 Block R, T. A. Thomson Survey in Hall County, Texas;

11 THENCE, East with the North line of said Section 9, Block R,
12 T. A. Thomson Survey to its Northeast corner;

13 THENCE, South with the East line of said Section 9, Block R,
14 T. A. Thomson Survey to its Southeast corner and the North line of
15 Section 67, Block 1, S. P. Ry. Co. Survey in Hall County, Texas;

16 THENCE, East with the North lines of Sections 67 and 68, Block
17 1, S. P. Ry. Co. Survey in Hall County, Texas, to the Northeast
18 corner of said Section 68;

19 THENCE, South with the East lines of Sections 68 and 53, Block
20 1, S. P. Ry. Co. Survey in Hall County, Texas, to the Southeast
21 corner of said Section 530 on the North Bank of the Prairie Dog Town
22 Fork of Red River;

23 THENCE, in a Northwesterly direction with the meanders of the
24 North bank of the Prairie Dog Town Fork of Red River to the PLACE OF
25 BEGINNING[+

26 ~~are hereby in all things and in all respects ratified, confirmed,~~
27 ~~approved and validated and said District shall embrace all land and~~
28 ~~property contained within the area delineated by said boundaries.~~
29 ~~It is hereby found and determined that all lands and other property~~
30 ~~included within the aforesaid boundaries are and will be benefited~~
31 ~~by the District and its improvements and it shall not be necessary~~
32 ~~for the District to hold any exclusion hearings and no exclusions~~
33 ~~shall be made].~~

34 SECTION 2.06. HUDSPETH COUNTY WATER CONTROL AND IMPROVEMENT

1 DISTRICT NO. 1. Section 2, Chapter 299, Acts of the 56th
2 Legislature, Regular Session, 1959, is amended to read as follows:

3 Sec. 2. The boundaries of the Hudspeth County Water Control
4 and Improvement [~~said~~] District No. 1 are [~~heretofore and herein~~
5 ~~established~~] as follows:

6 A tract of 2405 acres of land in Hudspeth County, Texas known
7 as the SW1/4 of Sur. No. 2 and the S1/2 of Sur. No. 3, Blk. No. 59, P.
8 S. L., the W1/2 of Sur. No. 2, Sur. No. 3, the E1/2 of Sur. No. 4, the
9 NE1/4 of Sur. No. 7, the NE1/4 of Sur. No. 8 and the NW1/4 of Sur.
10 No. 9, Blk. No. 61-1/2, Public School Land Surveys, including all
11 land that would normally inure to said surveys, and is situated at
12 the county site.

13 Beginning at an iron pipe at the NE corner of Sur. No. 4, Blk.
14 No. 61-1/2 P. S. L.;

15 Thence West 950 vrs with the North line of said Sur. No. 4, to
16 the NW corner of the E1/2 of said survey, for a NW corner of this
17 tract.

18 Thence South at 1900 vrs, the SW corner of the E1/2 of said
19 Sur. No. 4 and the NW corner of the NE1/4 of Sur. No. 7 and at 2850
20 vrs the SW corner of the NE1/4 of said Sur. No. 7, for a SW corner of
21 this tract.

22 Thence East 950 vrs to the SE corner of the NE1/4 of said Sur.
23 No. 7 in the East line of said survey, for a corner of this tract.

24 Thence North 950 vrs with the East line of said Sur. No. 7 to
25 the NE corner of same, and the NW corner of Sur. No. 8, for a corner
26 of this tract.

27 Thence East 950 vrs with the North line of Sur. No. 8, to the
28 NW corner of the NE1/4 of said survey for a corner of this tract.

29 Thence South 950 vrs to the SW corner of the NE1/4 of said
30 Sur. No. 8, for a corner of this tract.

31 Thence East at 950 vrs the SE corner of the NE1/4 of said Sur.
32 No. 8, and the SW corner of the NW1/4 of Sur. No. 9, and at 1900 vrs
33 the SE corner of the NW1/4 of said Sur. No. 9, for the SE corner of
34 this tract.

1 COUNTY, TEXAS. The following statutes are repealed:

2 (1) Chapter 165, Acts of the 67th Legislature, Regular
3 Session, 1981;

4 (2) Chapter 397, Acts of the 68th Legislature, Regular
5 Session, 1983;

6 (3) Section 2, Chapter 469, Acts of the 74th
7 Legislature, Regular Session, 1995; and

8 (4) Sections 1, 2, 3, and 4, Chapter 1334, Acts of the
9 78th Legislature, Regular Session, 2003.

10 SECTION 3.03. ORANGE COUNTY NAVIGATION AND PORT DISTRICT OF
11 ORANGE COUNTY, TEXAS. The following statutes are repealed:

12 (1) Chapter 370, Acts of the 53rd Legislature, Regular
13 Session, 1953; and

14 (2) Sections 2, 3, 4, and 5, Chapter 80, Acts of the
15 55th Legislature, Regular Session, 1957.

16 SECTION 3.04. CHAMBERS-LIBERTY COUNTIES NAVIGATION
17 DISTRICT. Chapter 1145, Acts of the 76th Legislature, Regular
18 Session, 1999, is repealed.

19 SECTION 3.05. HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO.
20 319. Sections 1, 2, 4, 5, 6, 7, 8, 9, and 10, Chapter 787, Acts of
21 the 69th Legislature, Regular Session, 1985, are repealed.

22 SECTION 3.06. POLK COUNTY FRESH WATER SUPPLY DISTRICT NO.
23 2. Sections 1, 2, and 4, Chapter 814, Acts of the 75th Legislature,
24 Regular Session, 1997, are repealed.

25 SECTION 3.07. LAKEWAY MUNICIPAL UTILITY DISTRICT. Chapter
26 1272, Acts of the 75th Legislature, Regular Session, 1997, is
27 repealed.

28 SECTION 3.08. TANGLEWOOD FOREST LIMITED DISTRICT. Chapter
29 675, Acts of the 74th Legislature, Regular Session, 1995, is
30 repealed.

31 SECTION 3.09. THE WOODLANDS METRO CENTER MUNICIPAL UTILITY
32 DISTRICT. Chapter 322, Acts of the 72nd Legislature, Regular
33 Session, 1991, is repealed.

34 SECTION 3.10. BAYBROOK MUNICIPAL UTILITY DISTRICT NO. 1.

1 Chapter 1386, Acts of the 77th Legislature, Regular Session, 2001,
2 is repealed.

3 SECTION 3.11. SULPHUR RIVER BASIN AUTHORITY. The following
4 statutes are repealed:

5 (1) Chapter 3, Acts of the 69th Legislature, 1st
6 Called Session, 1985; and

7 (2) Sections 15 and 17, Chapter 276, Acts of the 85th
8 Legislature, Regular Session, 2017.

9 SECTION 3.12. PALO DURO WATER DISTRICT. The following
10 statutes are repealed:

11 (1) Chapter 438, Acts of the 63rd Legislature, Regular
12 Session, 1973;

13 (2) Sections 6, 7, 8, and 9, Chapter 115, Acts of the
14 64th Legislature, Regular Session, 1975;

15 (3) Sections 5 and 6, Chapter 17, Acts of the 68th
16 Legislature, Regular Session, 1983;

17 (4) Sections 2, 3, and 4, Chapter 651, Acts of the 70th
18 Legislature, Regular Session, 1987; and

19 (5) Section 13, Chapter 1046, Acts of the 85th
20 Legislature, Regular Session, 2017.

21 SECTION 3.13. LIVE OAK UNDERGROUND WATER CONSERVATION
22 DISTRICT. The following statutes are repealed:

23 (1) Chapter 715, Acts of the 71st Legislature, Regular
24 Session, 1989;

25 (2) Sections 1, 2, 4, and 5, Chapter 305, Acts of the
26 73rd Legislature, Regular Session, 1993; and

27 (3) Section 5, Chapter 653, Acts of the 85th
28 Legislature, Regular Session, 2017.

29 SECTION 3.14. HEMPHILL COUNTY UNDERGROUND WATER
30 CONSERVATION DISTRICT. The following statutes are repealed:

31 (1) Chapter 157, Acts of the 74th Legislature, Regular
32 Session, 1995; and

33 (2) Section 6, Chapter 208, Acts of the 85th
34 Legislature, Regular Session, 2017.

1 SECTION 3.15. FORT BEND COUNTY WATER CONTROL AND
2 IMPROVEMENT DISTRICT NO. 2. The following statutes are repealed:

3 (1) Sections 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14,
4 15, 16, 17, 18, 19, 20, 21, and 22, Chapter 312, Acts of the 57th
5 Legislature, Regular Session, 1961;

6 (2) Chapter 381, Acts of the 61st Legislature, Regular
7 Session, 1969; and

8 (3) Sections 3, 4, and 5, Chapter 669, Acts of the 84th
9 Legislature, Regular Session, 2015.

10 SECTION 3.16. BELL COUNTY WATER CONTROL AND IMPROVEMENT
11 DISTRICT NO. 5. The following statutes are repealed:

12 (1) Chapter 226, Acts of the 56th Legislature, Regular
13 Session, 1959; and

14 (2) Chapter 227, Acts of the 56th Legislature, Regular
15 Session, 1959.

16 SECTION 3.17. FANNIN COUNTY WATER CONTROL AND IMPROVEMENT
17 DISTRICT NO. 1. The following statutes are repealed:

18 (1) Chapter 65, Acts of the 57th Legislature, Regular
19 Session, 1961; and

20 (2) Chapter 275, Acts of the 58th Legislature, Regular
21 Session, 1963.

22 SECTION 3.18. FORT HANCOCK WATER CONTROL AND IMPROVEMENT
23 DISTRICT OF HUDSPETH COUNTY, TEXAS. Sections 1, 2, 3, 4, 6, 7, 8, 9,
24 9a, 10, and 11, Chapter 78, Acts of the 57th Legislature, Regular
25 Session, 1961, are repealed.

26 SECTION 3.19. HALL AND DONLEY COUNTIES WATER CONTROL AND
27 IMPROVEMENT DISTRICT NO. 1 OF HALL AND DONLEY COUNTIES. The
28 following statutes are repealed:

29 (1) Chapter 424, Acts of the 56th Legislature, Regular
30 Session, 1959; and

31 (2) Sections 1, 3, 4, 5, 6, and 7, Chapter 189, Acts of
32 the 59th Legislature, Regular Session, 1965.

33 SECTION 3.20. HUDSPETH COUNTY WATER CONTROL AND IMPROVEMENT
34 DISTRICT NO. 1. Sections 1, 3, 4, 5, 6, and 7, Chapter 299, Acts of

1 the 56th Legislature, Regular Session, 1959, are repealed.

2 GENERAL MATTERS

3 SECTION 4.01. LEGISLATIVE INTENT OF NO SUBSTANTIVE CHANGE.

4 This Act is enacted under Section 43, Article III, Texas
5 Constitution. This Act is intended as a codification only, and no
6 substantive change in the law is intended by this Act. This Act
7 does not increase or decrease the territory of any special district
8 of the state as those boundaries exist on the effective date of this
9 Act.

10 SECTION 4.02. PRESERVATION OF VALIDATION MADE BY PREVIOUS

11 LAW. (a) The repeal of a law, including a validating law, by this
12 Act does not remove, void, or otherwise affect in any manner a
13 validation under the repealed law. The validation is preserved and
14 continues to have the same effect that it would have if the law were
15 not repealed.

16 (b) Subsection (a) of this section does not diminish the
17 saving provisions prescribed by Section 311.031, Government Code.

18 SECTION 4.03. EFFECTIVE DATE. This Act takes effect April
19 1, 2021.

1 APPENDIX B

2 CHAPTER 311. CODE CONSTRUCTION ACT

3 (current as of end of 86th Legislature, Regular Session, 2019)

4 SUBCHAPTER A. GENERAL PROVISIONS

5 Sec. 311.001. SHORT TITLE. This chapter may be cited as the
6 Code Construction Act.

7 Sec. 311.002. APPLICATION. This chapter applies to:

8 (1) each code enacted by the 60th or a subsequent
9 legislature as part of the state's continuing statutory revision
10 program;

11 (2) each amendment, repeal, revision, and reenactment
12 of a code or code provision by the 60th or a subsequent legislature;

13 (3) each repeal of a statute by a code; and

14 (4) each rule adopted under a code.

15 Sec. 311.003. RULES NOT EXCLUSIVE. The rules provided in
16 this chapter are not exclusive but are meant to describe and clarify
17 common situations in order to guide the preparation and
18 construction of codes.

19 Sec. 311.004. CITATION OF CODES. A code may be cited by its
20 name preceded by the specific part concerned. Examples of
21 citations are:

22 (1) Title 1, Business & Commerce Code;

23 (2) Chapter 5, Business & Commerce Code;

24 (3) Section 9.304, Business & Commerce Code;

25 (4) Section 15.06(a), Business & Commerce Code; and

26 (5) Section 17.18(b)(1)(B)(ii), Business & Commerce
27 Code.

28 Sec. 311.005. GENERAL DEFINITIONS. The following
29 definitions apply unless the statute or context in which the word or
30 phrase is used requires a different definition:

31 (1) "Oath" includes affirmation.

32 (2) "Person" includes corporation, organization,
33 government or governmental subdivision or agency, business trust,
34 estate, trust, partnership, association, and any other legal

1 entity.

2 (3) "Population" means the population shown by the
3 most recent federal decennial census.

4 (4) "Property" means real and personal property.

5 (5) "Rule" includes regulation.

6 (6) "Signed" includes any symbol executed or adopted
7 by a person with present intention to authenticate a writing.

8 (7) "State," when referring to a part of the United
9 States, includes any state, district, commonwealth, territory, and
10 insular possession of the United States and any area subject to the
11 legislative authority of the United States of America.

12 (8) "Swear" includes affirm.

13 (9) "United States" includes a department, bureau, or
14 other agency of the United States of America.

15 (10) "Week" means seven consecutive days.

16 (11) "Written" includes any representation of words,
17 letters, symbols, or figures.

18 (12) "Year" means 12 consecutive months.

19 (13) "Includes" and "including" are terms of
20 enlargement and not of limitation or exclusive enumeration, and use
21 of the terms does not create a presumption that components not
22 expressed are excluded.

23 Sec. 311.006. INTERNAL REFERENCES. In a code:

24 (1) a reference to a title, chapter, or section
25 without further identification is a reference to a title, chapter,
26 or section of the code; and

27 (2) a reference to a subtitle, subchapter, subsection,
28 subdivision, paragraph, or other numbered or lettered unit without
29 further identification is a reference to a unit of the next larger
30 unit of the code in which the reference appears.

31 SUBCHAPTER B. CONSTRUCTION OF WORDS AND PHRASES

32 Sec. 311.011. COMMON AND TECHNICAL USAGE OF WORDS. (a)
33 Words and phrases shall be read in context and construed according
34 to the rules of grammar and common usage.

1 (b) Words and phrases that have acquired a technical or
2 particular meaning, whether by legislative definition or
3 otherwise, shall be construed accordingly.

4 Sec. 311.012. TENSE, NUMBER, AND GENDER. (a) Words in the
5 present tense include the future tense.

6 (b) The singular includes the plural and the plural includes
7 the singular.

8 (c) Words of one gender include the other genders.

9 Sec. 311.013. AUTHORITY AND QUORUM OF PUBLIC BODY. (a) A
10 grant of authority to three or more persons as a public body confers
11 the authority on a majority of the number of members fixed by
12 statute.

13 (b) A quorum of a public body is a majority of the number of
14 members fixed by statute.

15 Sec. 311.014. COMPUTATION OF TIME. (a) In computing a
16 period of days, the first day is excluded and the last day is
17 included.

18 (b) If the last day of any period is a Saturday, Sunday, or
19 legal holiday, the period is extended to include the next day that
20 is not a Saturday, Sunday, or legal holiday.

21 (c) If a number of months is to be computed by counting the
22 months from a particular day, the period ends on the same numerical
23 day in the concluding month as the day of the month from which the
24 computation is begun, unless there are not that many days in the
25 concluding month, in which case the period ends on the last day of
26 that month.

27 Sec. 311.015. REFERENCE TO A SERIES. If a statute refers to
28 a series of numbers or letters, the first and last numbers or
29 letters are included.

30 Sec. 311.016. "MAY," "SHALL," "MUST," ETC. The following
31 constructions apply unless the context in which the word or phrase
32 appears necessarily requires a different construction or unless a
33 different construction is expressly provided by statute:

34 (1) "May" creates discretionary authority or grants

1 permission or a power.

2 (2) "Shall" imposes a duty.

3 (3) "Must" creates or recognizes a condition
4 precedent.

5 (4) "Is entitled to" creates or recognizes a right.

6 (5) "May not" imposes a prohibition and is synonymous
7 with "shall not."

8 (6) "Is not entitled to" negates a right.

9 (7) "Is not required to" negates a duty or condition
10 precedent.

11 SUBCHAPTER C. CONSTRUCTION OF STATUTES

12 Sec. 311.021. INTENTION IN ENACTMENT OF STATUTES. In
13 enacting a statute, it is presumed that:

14 (1) compliance with the constitutions of this state
15 and the United States is intended;

16 (2) the entire statute is intended to be effective;

17 (3) a just and reasonable result is intended;

18 (4) a result feasible of execution is intended; and

19 (5) public interest is favored over any private
20 interest.

21 Sec. 311.022. PROSPECTIVE OPERATION OF STATUTES. A statute
22 is presumed to be prospective in its operation unless expressly
23 made retrospective.

24 Sec. 311.023. STATUTE CONSTRUCTION AIDS. In construing a
25 statute, whether or not the statute is considered ambiguous on its
26 face, a court may consider among other matters the:

27 (1) object sought to be attained;

28 (2) circumstances under which the statute was enacted;

29 (3) legislative history;

30 (4) common law or former statutory provisions,
31 including laws on the same or similar subjects;

32 (5) consequences of a particular construction;

33 (6) administrative construction of the statute; and

34 (7) title (caption), preamble, and emergency

1 provision.

2 Sec. 311.024. HEADINGS. The heading of a title, subtitle,
3 chapter, subchapter, or section does not limit or expand the
4 meaning of a statute.

5 Sec. 311.025. IRRECONCILABLE STATUTES AND AMENDMENTS. (a)
6 Except as provided by Section 311.031(d), if statutes enacted at
7 the same or different sessions of the legislature are
8 irreconcilable, the statute latest in date of enactment prevails.

9 (b) Except as provided by Section 311.031(d), if amendments
10 to the same statute are enacted at the same session of the
11 legislature, one amendment without reference to another, the
12 amendments shall be harmonized, if possible, so that effect may be
13 given to each. If the amendments are irreconcilable, the latest in
14 date of enactment prevails.

15 (c) In determining whether amendments are irreconcilable,
16 text that is reenacted because of the requirement of Article III,
17 Section 36, of the Texas Constitution is not considered to be
18 irreconcilable with additions or omissions in the same text made by
19 another amendment. Unless clearly indicated to the contrary, an
20 amendment that reenacts text in compliance with that constitutional
21 requirement does not indicate legislative intent that the reenacted
22 text prevail over changes in the same text made by another
23 amendment, regardless of the relative dates of enactment.

24 (d) In this section, the date of enactment is the date on
25 which the last legislative vote is taken on the bill enacting the
26 statute.

27 (e) If the journals or other legislative records fail to
28 disclose which of two or more bills in conflict is latest in date of
29 enactment, the date of enactment of the respective bills is
30 considered to be, in order of priority:

31 (1) the date on which the last presiding officer
32 signed the bill;

33 (2) the date on which the governor signed the bill; or

34 (3) the date on which the bill became law by operation

1 of law.

2 Sec. 311.026. SPECIAL OR LOCAL PROVISION PREVAILS OVER
3 GENERAL. (a) If a general provision conflicts with a special or
4 local provision, the provisions shall be construed, if possible, so
5 that effect is given to both.

6 (b) If the conflict between the general provision and the
7 special or local provision is irreconcilable, the special or local
8 provision prevails as an exception to the general provision, unless
9 the general provision is the later enactment and the manifest
10 intent is that the general provision prevail.

11 Sec. 311.027. STATUTORY REFERENCES. Unless expressly
12 provided otherwise, a reference to any portion of a statute or rule
13 applies to all reenactments, revisions, or amendments of the
14 statute or rule.

15 Sec. 311.028. UNIFORM CONSTRUCTION OF UNIFORM ACTS. A
16 uniform act included in a code shall be construed to effect its
17 general purpose to make uniform the law of those states that enact
18 it.

19 Sec. 311.029. ENROLLED BILL CONTROLS. If the language of
20 the enrolled bill version of a statute conflicts with the language
21 of any subsequent printing or reprinting of the statute, the
22 language of the enrolled bill version controls.

23 Sec. 311.030. REPEAL OF REPEALING STATUTE. The repeal of a
24 repealing statute does not revive the statute originally repealed
25 nor impair the effect of any saving provision in it.

26 Sec. 311.031. SAVING PROVISIONS. (a) Except as provided by
27 Subsection (b), the reenactment, revision, amendment, or repeal of
28 a statute does not affect:

29 (1) the prior operation of the statute or any prior
30 action taken under it;

31 (2) any validation, cure, right, privilege,
32 obligation, or liability previously acquired, accrued, accorded,
33 or incurred under it;

34 (3) any violation of the statute or any penalty,

1 forfeiture, or punishment incurred under the statute before its
2 amendment or repeal; or

3 (4) any investigation, proceeding, or remedy
4 concerning any privilege, obligation, liability, penalty,
5 forfeiture, or punishment; and the investigation, proceeding, or
6 remedy may be instituted, continued, or enforced, and the penalty,
7 forfeiture, or punishment imposed, as if the statute had not been
8 repealed or amended.

9 (b) If the penalty, forfeiture, or punishment for any
10 offense is reduced by a reenactment, revision, or amendment of a
11 statute, the penalty, forfeiture, or punishment, if not already
12 imposed, shall be imposed according to the statute as amended.

13 (c) The repeal of a statute by a code does not affect an
14 amendment, revision, or reenactment of the statute by the same
15 legislature that enacted the code. The amendment, revision, or
16 reenactment is preserved and given effect as part of the code
17 provision that revised the statute so amended, revised, or
18 reenacted.

19 (d) If any provision of a code conflicts with a statute
20 enacted by the same legislature that enacted the code, the statute
21 controls.

22 Sec. 311.032. SEVERABILITY OF STATUTES. (a) If any statute
23 contains a provision for severability, that provision prevails in
24 interpreting that statute.

25 (b) If any statute contains a provision for
26 nonseverability, that provision prevails in interpreting that
27 statute.

28 (c) In a statute that does not contain a provision for
29 severability or nonseverability, if any provision of the statute or
30 its application to any person or circumstance is held invalid, the
31 invalidity does not affect other provisions or applications of the
32 statute that can be given effect without the invalid provision or
33 application, and to this end the provisions of the statute are
34 severable.

1 Sec. 311.034. WAIVER OF SOVEREIGN IMMUNITY. In order to
2 preserve the legislature's interest in managing state fiscal
3 matters through the appropriations process, a statute shall not be
4 construed as a waiver of sovereign immunity unless the waiver is
5 effected by clear and unambiguous language. In a statute, the use
6 of "person," as defined by Section 311.005 to include governmental
7 entities, does not indicate legislative intent to waive sovereign
8 immunity unless the context of the statute indicates no other
9 reasonable construction. Statutory prerequisites to a suit,
10 including the provision of notice, are jurisdictional requirements
11 in all suits against a governmental entity.

12 Sec. 311.035. CONSTRUCTION OF STATUTE OR RULE INVOLVING
13 CRIMINAL OFFENSE OR PENALTY. (a) In this section, "actor" and
14 "element of offense" have the meanings assigned by Section 1.07,
15 Penal Code.

16 (b) Except as provided by Subsection (c), a statute or rule
17 that creates or defines a criminal offense or penalty shall be
18 construed in favor of the actor if any part of the statute or rule is
19 ambiguous on its face or as applied to the case, including:

20 (1) an element of offense; or

21 (2) the penalty to be imposed.

22 (c) Subsection (b) does not apply to a criminal offense or
23 penalty under the Penal Code or under the Texas Controlled
24 Substances Act.

25 (d) The ambiguity of a part of a statute or rule to which
26 this section applies is a matter of law to be resolved by the judge.

APPENDIX C
DISPOSITION TABLE

SPECIAL DISTRICT LOCAL LAWS CODE

53rd Leg., R.S., Ch. 370

5	Sec. 1 (part)	5018.0001
6	(part)	5018.0002
7	(part)	5018.0003
8	(part)	5018.0101
9	Sec. 2 (part)	5018.0057
10	(part)	5018.0101
11	(part)	5018.0102
12	(part)	5018.0104
13	(part)	5018.0105
14	(part)	5018.0107
15	(part)	5018.0108
16	(part)	5018.0109
17	(part)	5018.0153
18	(part)	5018.0154
19	(part) . . . . .	.RN 5018.0154
20	Sec. 2(j) (part)	5018.0103
21	(part) . . . . .	.RN(3) 5018.0103
22	Sec. 2A	5018.0110
23	Sec. 3 (part)	5018.0051
24	(part)	5018.0052
25	(part)	5018.0101
26	(part)	5018.0156
27	Sec. 4	5018.0106
28	Sec. 5 (part)	5018.0155
29	(part) . . . . .	.RN(4) 5018.0155
30	Sec. 6 . . . . .	.RN(1) EOC 5018.0208
31	Sec. 7	5018.0057
32	Sec. 8(a) (part)	5018.0051
33	(part)	5018.0052
34	(b) (part) . . . . .	.RN(1) SubCh. B 5018.0060

1	(part)	RN(2) SubCh. B	5018.0060
2	(part)	RN(3) SubCh. B	5018.0060
3	(c)		5018.0051
4	(d)	RN(6)	5018.0051
5	(e)		5018.0056
6	(f)	RN(4) SubCh. B	5018.0060
7	Sec. 9 (part)		5018.0059
8	(part)		5018.0152
9	Sec. 10		5018.0055
10	Sec. 11 (part)		5018.0057
11	(part)		5018.0058
12	(part)		5018.0060
13	Sec. 12		5018.0151
14	Sec. 13		5018.0054
15	Sec. 14(a) (part)		5018.0201
16	(part)		5018.0202
17	(part)		5018.0204
18	(b) (part)		5018.0202
19	(part)		5018.0203
20	(part)	RN(2)	5018.0203
21	(c) (part)		5018.0202
22	(part)		5018.0205
23	(part)	RN	5018.0205
24	(part)		5018.0206
25	(part)	RN(1) SubCh. E	5018.0208
26	(part)	RN(2) SubCh. E	5018.0208
27	(part)	RN(3) SubCh. E	5018.0208
28	(part)	RN(4) SubCh. E	5018.0208
29	(part)	RN(5) SubCh. E	5018.0208
30	(part)	RN(6) SubCh. E	5018.0208
31	(d)		5018.0207
32	(e) (part)		5018.0202
33	(part)		5018.0203
34	(part)	RN(5) SubCh. E	5018.0208

1	Sec. 15 (part)	5018.0208
2	(part)	RN(5) SubCh. E 5018.0208
3	Sec. 16 (part)	RN(7) SubCh. E 5018.0208
4	(part)	RN(8) SubCh. E 5018.0208
5	Sec. 17 (part)	5018.0053
6	(part)	5018.0155
7	Sec. 18 . . . . .	.RN(2) EOC 5018.0208
8	Sec. 19	5018.0004
9	Sec. 20 . . . . .	.RN(3) EOC 5018.0208
10	55th Leg., R.S., Ch. 80	
11	Sec. 2 . . . . .	.RN(4) EOC 5018.0208
12	Sec. 3 . . . . .	.RN(5) EOC 5018.0208
13	Sec. 4	5018.0002
14	Sec. 5 . . . . .	.RN(3) EOC 5018.0208
15	56th Leg., R.S., Ch. 226	
16	Sec. 1	RN EOC 9077.0002
17	56th Leg., R.S., Ch. 227	
18	Sec. 1 (part)	9077.0001
19	(part)	9077.0002
20	56th Leg., R.S., Ch. 299	
21	Sec. 1 (part)	9083.0001
22	(part)	9083.0002
23	(part)	9083.0101
24	(part)	9083.0102
25	(part) . . . . .	.RN(1) EOC 9083.0151
26	Sec. 2 (part)	9083.0003
27	(part)	9083.0004
28	(part) . . . . .	.RN(1) EOC 9083.0151
29	Sec. 3 (part) . . . . .	.RN(1) EOC 9083.0151
30	(part) . . . . .	.RN(2) EOC 9083.0151
31	Sec. 4 (part) . . . . .	.RN(1) 9083.0051
32	(part) . . . . .	.RN(2) 9083.0051
33	Sec. 5	9083.0151
34	Sec. 6 . . . . .	.RN(3) EOC 9083.0151

1	Sec. 7 (part)	9083.0002
2	(part)	9083.0003
3	(part)	9083.0005
4	(part)RN SubCh. A	9083.0005
5	56th Leg., R.S., Ch. 424	
6	Sec. 1 (part)	9080.0001
7	(part)	9080.0002
8	(part)	9080.0101
9	(part)	9080.0102
10	(part)RN(1) EOC	9080.0151
11	Sec. 2 (part)RN(2)	9080.0004
12	(part)RN(1) EOC	9080.0151
13	(part)RN(2) EOC	9080.0151
14	Sec. 3RN(1) EOC	9080.0151
15	Sec. 4 (part)RN(1)	9080.0051
16	(part)RN(2)	9080.0051
17	Sec. 5	9080.0151
18	Sec. 6RN(3) EOC	9080.0151
19	Sec. 7 (part)	9080.0003
20	(part)	9080.0005
21	57th Leg., R.S., Ch. 65	
22	Sec. 1 (part)	9078.0001
23	(part)	9078.0002
24	(part)	9078.0004
25	(part)RN(1) EOC	9078.0155
26	Sec. 2 (part)	9078.0051
27	(part)	9078.0052
28	(part)	9078.0053
29	(part)	9078.0054
30	Sec. 3 (part)RN SubCh. B	9078.0054
31	(part)	9078.0101
32	(part)	9078.0102
33	(part)	9078.0152
34	57th Leg., R.S., Ch. 78	

1	Sec. 1 . . . . .	.RN(1) EOC 9079.0202
2	Sec. 2 . . . . .	.RN(2) EOC 9079.0202
3	Sec. 3	9079.0001
4	Sec. 4 (part)	9079.0051
5	(part)	9079.0052
6	(part) . . . . .	.RN(1) 9079.0052
7	(part) . . . . .	.RN(2) 9079.0052
8	(part) . . . . .	.RN(3) EOC 9079.0202
9	Sec. 6 (part)	9079.0201
10	(part)	9079.0202
11	Sec. 7 . . . . .	.RN(4) EOC 9079.0202
12	Sec. 8	9079.0151
13	Sec. 9	9079.0002
14	Sec. 9a	9079.0102
15	Sec. 10 (part)	9079.0101
16	(part) . . . . .	.RN(5) 9079.0101
17	Sec. 11 . . . . .	.RN(5) EOC 9079.0202
18	57th Leg., R.S., Ch. 312	
19	Sec. 1 (part)	9075.0001
20	(part)	9075.0004
21	Sec. 2	9075.0002
22	Sec. 3 . . . . .	.RN(1) EOC 9075.0064
23	Sec. 4 . . . . .	.RN(2) EOC 9075.0064
24	Sec. 5 . . . . .	.RN SubCh. A 9075.0005
25	Sec. 6	9075.0005
26	Sec. 7 . . . . .	.RN(5) EOC 9075.0064
27	Sec. 9	9075.0051
28	Sec. 10	9075.0052
29	Sec. 11	9075.0053
30	Sec. 12	9075.0054
31	Sec. 13	9075.0055
32	Sec. 14	9075.0056
33	Sec. 15	9075.0057
34	Sec. 16	9075.0058

1	Sec. 17	9075.0059
2	Sec. 18	9075.0060
3	Sec. 19	9075.0061
4	Sec. 20	9075.0062
5	Sec. 21	9075.0063
6	Sec. 22	9075.0064
7	58th Leg., R.S., Ch. 275	
8	Sec. 1 (part)	9078.0002
9	(part)	9078.0051
10	(part)	9078.0052
11	(part) . . . . .	.RN(1) EOC 9078.0155
12	Sec. 2 . . . . .	.RN(2) EOC 9078.0155
13	Sec. 3 (part)	9078.0003
14	(part) . . . . .	.RN(3) EOC 9078.0155
15	Sec. 4	9078.0103
16	Sec. 5 (part)	9078.0151
17	(part)	9078.0152
18	(part) . . . . .	.RN(5) 9078.0152
19	(part)	9078.0153
20	(part)	9078.0154
21	(part) . . . . .	.RN(3) 9078.0154
22	(part) . . . . .	.RN(4) 9078.0154
23	(part) . . . . .	.RN(5) 9078.0154
24	(part)	9078.0155
25	(part) . . . . .	.RN 9078.0155
26	(part) . . . . .	.RN SubCh. D 9078.0155
27	Sec. 6 . . . . .	.RN(4) EOC 9078.0155
28	Sec. 7 (part)	9078.0002
29	(part)	9078.0003
30	(part) . . . . .	.RN 9078.0003
31	(part)	9078.0005
32	Sec. 8 . . . . .	.RN(5) EOC 9078.0155
33	59th Leg., R.S., Ch. 189	
34	Sec. 1 (part)	9080.0001

1	(part)	9080.0002
2	(part)	9080.0101
3	(part)	9080.0102
4	(part)RN(1) EOC	9080.0151
5	Sec. 2 (part)	9080.0003
6	(part)	9080.0004
7	(part)RN(1) EOC	9080.0151
8	(part)RN(2) EOC	9080.0151
9	Sec. 3RN(1) EOC	9080.0151
10	Sec. 4 (part)RN(1)	9080.0051
11	(part)RN(2)	9080.0051
12	Sec. 5	9080.0151
13	Sec. 6RN(3) EOC	9080.0151
14	Sec. 7 (part)	9080.0003
15	(part)	9080.0005
16	61st Leg., R.S., Ch. 381	
17	Sec. 1 (part)	9075.0001
18	(part)	9075.0003
19	(part)RN(2) EOC	9075.0064
20	Sec. 2RN(2) EOC	9075.0064
21	Sec. 3	9075.0002
22	Sec. 4RN(3) EOC	9075.0064
23	Sec. 5RN(5) EOC	9075.0064
24	63rd Leg., R.S., Ch. 379	
25	Sec. 1 (part)	5012.0001
26	(part)	5012.0002
27	(part)RN(3)	5012.0002
28	(part)	5012.0003
29	(part)RN SubCh. A	5012.0003
30	(part)	5012.0101
31	Sec. 2 (part)	5012.0001
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33	Sec. 3 (part)	5012.0101
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3	(part)	5012.0105
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5	(part)	RN(1) 5012.0106
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10	(part)	5012.0112
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12	(part)	RN(2) 5012.0153
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15	(part)	5012.0201
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21	(part)	RN(6) 5012.0051
22	(part)	5012.0053
23	(part)	RN(1) SubCh. B 5012.0058
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25	(part)	RN(3) SubCh. B 5012.0058
26	Sec. 6 (part)	5012.0054
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29	(part)	RN 5012.0056
30	(part)	5012.0057
31	(part)	5012.0058
32	(part)	RN(4) SubCh. B 5012.0058
33	Sec. 7	5012.0152
34	Sec. 8 (part)	5012.0201

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4	(part)	RN(3) 5012.0202
5	(part)	5012.0203
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11	(part)	RN(2) SubCh. E 5012.0207
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